

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.)

40-7580

Hearing Date: November 5, 2003 at 2:00 p.m., EST
Objections Due: October 28, 2003 5:00 p.m., EST

NOTICE OF DEBTORS' OBJECTION TO CLAIMS OF THE POST CONFIRMATION COMMITTEE ON BEHALF OF THE ESTATE OF R. LAVIN & SONS, INC.

TO: Parties required to receive notice pursuant to Del. Bankr. LR 2002-1(b); all parties requesting notice pursuant to Fed. R. Bankr. P.2002; and the party whose claim is affected by this objection.

The above-captioned debtors and debtors-in-possession (the "Debtors"), have filed the attached Debtors' Objection To Claim of R.Lavin & Sons, Inc. ("Lavin") c/o the Post-Confirmation Committee authorized to liquidate the assets of Lavin bankruptcy estates (the "PCC") dated August 28, 2002 and filed against Fansteel Inc., Fansteel Holdings, Inc., Custom Technologies Corp. and Phoenix Aerospace Corp., on September 5, 2002 and seeks entry of order disallowing and expunging the proof of claim (the "Proof of Claim").

Objections or responses, if any, to the Objection, must be filed with the United States Bankruptcy Court for the District of Delaware, 824 Market Street, Wilmington, Delaware 19801 on or before October 28, 2003 at 5:00 p.m. Eastern Time. At the same time, you must also serve a copy of the response or objection (a) counsel to the Debtors, (i) Schulte Roth & Zabel LLP, 919 Third Avenue, New York, New York 10022, Attn: Jeffrey S. Sabin and (ii)

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.

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Pachulski, Stang, Ziehl, Young, Jones, & Weintraub P.C., 919 North Market Street, 16th Floor, Wilmington, Delaware, 19899-8705, Attn: Laura Davis Jones, (b) counsel to the Committee, Freeborn & Peters, 311 South Wacker Drive, Ste. 3000, Chicago, Illinois 60606-6677, Attn.: Frances Gecker and co-counsel to the Committee, Landis Rath & Cobb LLP, 919 Market Street, Suite 600, P.O. Box 2087, Wilmington, Delaware 19801, Attn: Adam G. Landis, and (c) the Office of the United States Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801, Attn: David Buchbinder.

A HEARING ON THE OBJECTION WILL BE HELD BEFORE THE HONORABLE JOSEPH J. FARNAN, JR., UNITED STATES DISTRICT COURT JUDGE FOR THE DISTRICT OF DELAWARE, AT THE DISTRICT COURT AT THE J. CALEB BOGGS FEDERAL BUILDING, 844 N. KING STREET, WILMINGTON, DELAWARE 19801, COURTROOM 4B, ON NOVEMBER 5, 2003 AT 2:00 P.M. prevailing Eastern time (the "Claims Hearing").

If you file a response to the Objection, you should be prepared to argue that response at the Claims Hearing. You need not appear at the Claims Hearing if you do not oppose the relief requested in the Objection.

IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF DEMANDED BY THE OBJECTION WITHOUT FURTHER NOTICE OR HEARING.

The claimant who has filed a claim subject to the Objection is receiving a copy of the Objection. The claimant should read the Objection, which describes the grounds of the Objection.

Any response filed with the Court must contain at a minimum the following:

(a) a caption setting forth the name of the Court, the names of the Debtors, the case number and the title of this Objection;

(b) the name of the claimant and description of the basis for the amount of the claim;

(c) a concise statement setting forth the reasons why the claim should not be disallowed and expunged for the reasons set forth in the Objection, including, but not limited to, the specific factual and legal basis upon which the claimant will rely in opposing the Objection;

(d) all documentation or other evidence of the claim, to the extent not included with the proof of claim previously filed with the Bankruptcy Court, upon which the claimant will rely in opposing the Objection at the Claims Hearing; and

(e) the name, address, and telephone number of the person (which may be the claimant or the claimant's legal representative) possessing ultimate authority to reconcile, settle, or otherwise resolve the claim on behalf of the claimant.

Questions about the Objection or requests for additional information about the proposed disposition of claims thereunder should also be directed to the Debtors' counsel at the above addresses, or by telephone at (302) 652-4100 or (212) 756-2455.

PLEASE TAKE FURTHER NOTICE that the Debtors reserves the right to seek leave of Court to object in the future to any of claimant's claims on any further or additional grounds. Separate notice will be made and a separate hearing will be scheduled for any such objection.

Wilmington, Delaware

Dated: October 1, 2003

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Co-Counsel for 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. 02-10109 (JJF)
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**DEBTORS' OBJECTION TO CLAIMS OF THE POST CONFIRMATION
COMMITTEE ON BEHALF OF THE ESTATE OF R. LAVIN & SONS, INC.**

Fansteel Inc. ("Fansteel"), a Delaware corporation, and its direct and indirect subsidiaries, as debtors and debtors in possession (collectively, the "Debtors"), by and through their counsel, Schulte Roth & Zabel LLP and Pachulski, Stang, Ziehl, Young, Jones & Weintraub P.C., hereby objects (the "Objection") to the proofs of claim of R.Lavin & Sons, Inc. ("Lavin") by the Post-Confirmation Committee authorized to liquidate the assets of Lavin bankruptcy estates (the "PCC") dated August 28, 2002 and filed against Fansteel Inc., Claim No. 639, Fansteel Holdings, Inc. Claim No. 640, Custom Technologies Corp. Claim No. 642, and Phoenix Aerospace Corp. Claim No. 641, on September 5, 2002 (collectively, the "Proof of Claim"), and seeks entry of order disallowing and expunging the Proof of Claim. The Affidavit of Gary L. Tessitore, Chairman of the Board, Chief Executive Officer and President, of Fansteel in support of this Objection is attached hereto as Exhibit "A". In further support of this Objection, the Debtors respectfully state as follows:

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.

Introduction

1. On January 15, 2002 (the "Petition Date"), the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code. During the course of the first day hearings on the Debtors' motions, the Court entered an order directing the joint administration of the Debtors' cases (the "Chapter 11 Cases"), for procedural purposes only.

2. Since the Petition Date, the Debtors have continued in possession of their properties and are operating and managing their businesses as debtors and debtors in possession pursuant to Bankruptcy Code §§ 1107 and 1108.

3. No request has been made for the appointment of a trustee or examiner. On January 28, 2002, an Official Committee of Unsecured Creditors (the "Committee") was appointed by the United States Trustee.

4. Pursuant to Rule 3003(c)(3) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), this Court fixed September 23, 2002 as the bar date for the filing of Proofs of Claim.

5. On September 18, 2003, the Debtors' filed their First Amended Disclosure Statement with respect to the First Amended Joint Reorganization Plan for Fansteel Inc. and Subsidiaries. [Docket Nos. 1346 and 1345, respectively.]

6. On or about September 5, 2002, PCC timely filed its Proof of Claim against Fansteel Inc., Fansteel Holdings, Inc., Custom Technologies Corp. and Phoenix Aerospace Corp. asserting potential claims for the recovery, reimbursement and contribution for costs incurred or to be incurred in "connection with investigation and remediation of the R Lavin & Sons, Inc. real estate located at 2028 Sheridan Road, North Chicago, Illinois (the "Lavin Site") and the adjacent Pettibone Creek and U.S. Navy Harbor, also located in North Chicago, Lake County, Illinois (the "Adjacent Sites")", see, Rider to Proof of Claim at par. 1 attached hereto as

Exhibit "B", under Sections 107(a) and 113(f) of the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"). The Lavin Site, together with the real property located at One Tantalum Place, North Chicago, Illinois owned by the Debtor, Fansteel Inc., (the "Fansteel Site"), and a 6.4 acre vacant parcel to the west of the Fansteel Site located at the northeast corner of Commonwealth Avenue and 22nd Street in North Chicago (the "Vacant Lot Site"), are collectively referred to as the "Vulcan Louisville Smelter Site" by the United States Environmental Protection Agency (the "EPA").

Jurisdiction

7. This 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 predicts for the relief sought is section 502(e)(1)(B) of the United States Bankruptcy Code and rule 3007 of the Federal Rules of Bankruptcy Procedure.

Background

8. Fansteel and the other seven 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 nine manufacturing facilities (five of which are owned by Fansteel) in nine states.

9. The most important raw materials used by Fansteel are tungsten carbide powder, cobalt, titanium, magnesium, aluminum, iron, bronze, copper, stainless steel, and alloy steel. The operations of the respective businesses of the Debtors are subject to regulation under state and federal environmental laws, including the Atomic Energy Act of 1954. The nature of the Debtors' operations have caused the Debtors to be exposed, in certain instances, to potential

environmental claims and clean-up obligations in accordance with applicable state and federal environmental laws.

10. The Fansteel Site, owned and operated by the Debtor, Fansteel, was previously used as a manufacturing facility and now serves as the Debtors' North Chicago corporate headquarters. The Vulcan Louisville Smelter Site was previously owned and operated by other parties¹, including the Vulcan Louisville Smelting Company, which used the property in connection with the operation of a lead smelting facility.

11. In 1997, the EPA informed Fansteel that they had been identified as potentially responsible parties ("PRPs") under the CERCLA in connection with releases of hazardous substances at the Vulcan Louisville Smelter Site. Similarly, Lavin has also been identified by the EPA a PRP. See Proof of Claim.

12. In October 1997, the EPA completed an Engineering Evaluation and Cost Analysis ("EE/CA") and determined that releases of hazardous substances had impacted the soil and groundwater at the Vacant Lot Site and the sediments in the Pettibone Creek that flows intermittently across the Vacant Lot Site.

13. In 1999, the EPA completed a Removal Action under section 104 of CERCLA whereby the agency excavated and disposed contaminated soils at the Vacant Lot Site and contaminated sediments in the Pettibone Creek.

14. On September 27, 2000, the EPA issued a unilateral order under section 106 of CERCLA (the "106 Order") requiring Fansteel, as an identified PRP, to perform a supplemental EE/CA primarily to investigate the source and extent of trichloroethene ("TCE") at the Vacant Lot Site. The issuance of the 106 Order by the EPA is not a final determination of

¹ Prior to Fansteel Inc.'s acquisition of the Fansteel Site, the property was owned by the United States Army and leased by Fansteel.

Fansteel's responsibility with respect to site as against any of the PRPs, including without limitation, Lavin.

15. On February 26, 2001, an involuntary petition was filed against Lavin under Section 303(b) of the Bankruptcy Code in the United States Bankruptcy Court for the Northern District of Illinois. Lavin subsequently consented to the petition for relief under Chapter 11 on March 20, 2001.

16. On September 13, 2001, the Bankruptcy Court in Lavin's chapter 11 cases, entered an order confirming the official Unsecured Committee's Amended Liquidating Plan of Reorganization. Pursuant to the Lavin Liquidating Plan, a committee, the PCC, was established to liquidate and administer the assets of the Lavin estates to its creditors.

17. On October 3, 2001, Fansteel timely filed a proof of claim (the "Fansteel Claim") in the Lavin bankruptcy cases for costs incurred as a result of releases of hazardous substances associated with Lavin's operations that have impacted the Vulcan Louisville Smelter Site and the Adjacent Sites, and for any liability incurred by Fansteel as a result of the discharges from the Lavin Site. The Fansteel Claim was filed against Lavin for an amount in excess of \$1,000,000 under Sections 107(a) and 113(f) of CERCLA.²

18. To date, Fansteel has incurred approximately \$1 million associated with the response actions it has taken at Fansteel site, the Vacant Lot Site and the Adjacent Sites. Further, pursuant to Fansteel's proposed first amended joint plan of reorganization, filed in its

² On information and belief, the Department of Justice has filed claims against Lavin on behalf various government agencies including the EPA and the Department of Navy for the recovery of response costs and damages for injury to, destruction of, or loss of natural resources in an amount of approximately \$12,304,000 to \$17,704,400, see Rider to Proof of Claim. Lavin has not, however, made any payment or distribution to these agencies on account of such claims.

Chapter 11 Cases on September 18, 2003, Fansteel expects to spend as much as \$2.6 million for future response actions pursuant to the EE/CA related to the Vulcan Louisville Smelter Site.³

19. On or about March 31, 2003, PCC filed an objection to the Fansteel Claim (the "Lavin Objection") seeking to disallow the Fansteel Claim on grounds that (i) Lavin did not contribute to the contamination at the Fansteel Site or the Vacant Lot Site, (ii) that Fansteel was solely responsible for the contamination at the Vulcan Louisville Smelter Site, (iii) that any contamination caused by Lavin was pursuant a National Pollution Discharge Elimination System ("NPDES") permit issued by the Illinois Environmental Protection Agency ("IEPA"), and (iv) that Fansteel is not entitled to recover its response costs incurred to address releases of hazardous substances because Fansteel's response actions were not consistent with the National Contingency Plan ("NCP").⁴ The Lavin Objection is currently pending as the hearing initially scheduled for July 17, 2003. It has, after several adjournments, been rescheduled for November 4, 2003.

The PCC Proof of Claim

20. The Proof of Claim relates to potential future and contingent claims that the PCC may have against Fansteel Inc., Fansteel Holdings, Inc., Custom Technologies Corp. and Phoenix Aerospace Corp. for reimbursement and contribution of response costs at the Vulcan Louisville Smelter Site. As an owner of one of the parcels comprising the Vulcan

³ Fansteel's response actions, costs incurred, or cooperation with the EPA with respect to the Vulcan Louisville Smelter Site, are not, and may not be interpreted as, an admission of responsibility for any of the contamination within the Vulcan Louisville Smelter Site. Fansteel reserves all rights to seek recovery and reimbursement for such costs incurred pursuant to Sections 107(a) and 113(f) of CERCLA from all PRPs and has asserted such claims against Lavin as set forth in this Objection. Fansteel anticipates that the claims between it and the EPA, the Department of Navy, the Department of the Interior and the National Oceanic and Atmospheric Administration will be settled pursuant to a consent decree between the parties pursuant to its plan of reorganization.

⁴ The Lavin Objection does not seek to disallow the Fansteel Claim on the basis of Section 502(e)(1)(B) of the Bankruptcy Code. The Debtors, therefore, believe that Lavin and PCC are now estopped from asserting any such basis for an objection to the Fansteel Claim.

Louisville Smelter Site, Lavin is jointly and severally liable for the remediation of the releases of hazardous substances at the Vulcan Louisville Smelter Site. Lavin is also liable as an "operator" under CERCLA since its operations, as well as those of its predecessors, have contributed to the contamination at the Vulcan Louisville Smelter Site. Consequently, under sections 107(a) and 113(f) of CERCLA, Fansteel may seek reimbursement or contribution from Lavin for the costs of more than \$1 million that Fansteel has incurred, as well as future costs, in connection with the response actions taken to cleanup releases of hazardous substances at the Vulcan Louisville Smelter Site.

21. Lavin, to the best of the Debtors' knowledge, has not incurred any substantial expense associated with, nor been required by the EPA to undertake or pay for any response actions with respect to the Vulcan Louisville Smelter Site.⁵ Lavin has reported, however, that the Department of Justice (the "DOJ"), on behalf of the certain agencies within the federal government, including the EPA and the Department of the Navy, have filed claims against the Lavin estates in the range of \$12,304,400 to \$17,804,400 for response costs and natural resources damages. See Rider to Proof of Claim. On information and belief, no distribution has been made on account of these claims. See Lavin Post-Confirmation Status Report, filed September 19, 2002, Case No. 01-B-06301, United States Bankruptcy Court, N.D. Illinois, docket #246, attached hereto as Exhibit "C", (the "PCC Status Report").⁶

⁵ The PCC Status Report, attached hereto as Exhibit "C", indicates that the PCC was in the process of negotiating an administrative order with the responsible federal agencies to address the scope of the response actions to be undertaken by Lavin at the Lavin Site. The PCC Status Report indicates that a proposal submitted by the PCC sought to cap the exposure for any such response actions at \$180,000. See PCC Status Report at Page 5, paragraph (b)(i). Based on a review of the Lavin docket, there is no indication that such a settlement with the EPA was effectuated.

⁶ The Lavin docket reflects that the next status report has been scheduled for November 4, 2003. Further, on September 5, 2003, the City of North Chicago filed a motion for relief from the stay to permit the city to commence condemnation proceedings with respect to the Lavin Site, docket #759. The Debtors, therefore, do not believe that the PCC has been successful in its efforts to settle the environmental claims associated with the Lavin Site or to negotiate a sale of the property.

22. The EPA is similarly a creditor of Fansteel for claims arising as a result of Fansteel's ownership of a portion of the Vulcan Louisville Smelter Site. On September 2, 2002, the DOJ filed a proof of claim in the Debtors' chapter 11 cases, which indicated that the EPA had spent approximately \$4.7 million at the Vacant Lot Site and may spend up to \$8 million to implement future response actions. The DOJ also filed a proof of claim on behalf of various other federal agencies, including the Department of the Navy, for up to \$16,500,000 in past and future response costs and natural resources damages associated with the Vulcan Louisville Smelter Site and the Adjacent Sites. The Debtors believe that the claims asserted by the EPA against Lavin and the Debtors arise from, and are related to, the same obligations with respect to the Vulcan Louisville Smelter Site and the Adjacent Sites.⁷

Basis For Relief Requested

23. The Debtors believe that the Proof of Claim asserted by PCC on behalf of the Lavin estates is improperly asserted and without merit. The Proof of Claim has been asserted against Fansteel, Fansteel Holdings, Inc., Custom Technologies Corp. and Phoenix Aerospace Corp., although only Fansteel has ever owned and conducted any business at the Fansteel Site.⁸ Further, Fansteel has a National Pollution Discharge Elimination System ("NPDES") permit that authorizes Fansteel to discharge certain wastewaters to the Pettibone Creek such that any such discharges by Fansteel are authorized by its federal NPDES permit. Notwithstanding the above, the Proof of Claim not only seeks reimbursement for amounts not incurred by Lavin, but also

⁷ Other than the claims filed by the DOJ on behalf of the EPA in its regulatory capacity, and NOAA and the DOI, in their capacity as natural resource damage trustees, the claims filed by the DOJ on behalf of the Department of the Navy and the other federal agencies are filed as contribution claims under CERCLA. On information and belief, the claims asserted by the DOJ against Lavin on behalf of such federal agencies and departments are similarly for contribution claims.

⁸ Fansteel Holdings, Inc., Custom Technologies Corp. and Phoenix Aerospace Corp. share their same corporate headquarters as Fansteel Inc. which is located at the Fansteel Site, however, none of the operations of these entities are conducted or were ever conducted at this location.

seeks amounts that are inconsistent with the NCP and not supported by the Debtors' information regarding the Vulcan Louisville Smelter Site. Most significantly, the Proof of Claim is for contingent reimbursement or contribution amounts, that cannot be accurately estimated or liquidated, and for which Lavin is, at best, co-liable and are, therefore, to be expunged in accordance with section 502(e)(1)(B) of the Bankruptcy Code.⁹

The Proof of Claim is Improperly Asserted Against the Debtors

24. PCC filed its Proof of Claim against each of the Debtor entities although it acknowledges that it had no basis or information for doing so, other than to protect the interests of the Lavin estates in the absence of further information. In reality, PCC has simply opted to forgo basic due diligence to investigate the nature of the potential claims that it has asserted that would have revealed that Fansteel Inc. is the sole owner of the Fansteel Site and that none of the other Debtors own or conduct, nor have they ever owned or conducted, any business at the Fansteel Site or the Vulcan Louisville Smelter Site. The Proof of Claim states that PCC "does not have any independent information concerning the nature of the actual business operations conducted by each of the Fansteel/North Chicago Entities" and to the extent that they discover that any of the Debtors did not conduct operations at the location, PCC will "withdraw any such proof of claim". See Rider to Proof of Claim.

25. PCC and Lavin both possess sufficient information to determine that the only Fansteel conducted any operations at the Fansteel Site. Fansteel was the only Debtor entity identified as a PRP by the EPA. The PCC reported that it "had significant discussions with many representatives of various federal, state and local governmental agencies, including: the U.S.

⁹ As set forth in Footnote 7 herein, the City of North Chicago is presently seeking to commence condemnation proceedings to take over the Lavin Site. The Post-Confirmation Status Report of September 19, 2002 further indicates that absent a resolution of the Environmental Claims "further liquidation efforts would be meaningless". See page 6 of PCC Status Report annexed hereto as Exhibit "C".

Department of the Navy; U.S. Department of the Interior; National Oceanic and Atmospheric Administration of the U.S.; the Department of Commerce; U.S. Environmental Protection Agency; and U.S. Department of Justice...regarding environmental issues related to environmental clean up efforts at the Facility". See page 2 @ par. (h), PCC Status Report, attached hereto as Exhibit "C". Further, The PCC reported that it "retained special counsel and consultants needed to address a multitude of environmental issues". See page 2 @ par.(g), PCC Status Report. The Debtors believe, therefore, that PCC was privy to information to determine that only Fansteel would be considered an "owner or operator" of the Fansteel Site under CERCLA.

26. In addition to the aforementioned, on September 10, 2003, the Debtors through counsel, notified the counsel for the PCC in writing that Fansteel was the only entity among the Debtors that ever owned or conducted operations at the Fansteel Site and requested that the PCC voluntarily withdraw its Proof Claim with respect to Fansteel Holdings, Inc., Custom Technologies Corp. and Phoenix Aerospace Corp., in accordance with PCC representations made in their Proof of Claim. A copy of the Debtors' request is attached hereto as Exhibit "D". PCC has, however, failed to voluntarily withdraw its Proof of Claim with respect to these Debtor entities.

27. The Debtors believe that based on the above, and because the Debtors schedules, which were publicly filed, available to PCC and clearly demonstrated that the only party to have any interest in the Fansteel Site was Fansteel, the Proof of Claim against Fansteel Holdings, Inc., Custom Technologies Corp. and Phoenix Aerospace Corp. is clearly without merit. The Proof of Claim against the Debtors, other than Fansteel, must therefore be expunged in the absence of an immediate and voluntary withdrawal of same by PCC.

Fansteel's Discharge Was Pursuant to a Valid NPDES

28. Fansteel has been issued a NPDES permit by the IEPA to discharge non-contact cooling water to Pettibone Creek. Discharges from the Fansteel Site have remained substantially in compliance with the terms of its NPDES permit.¹⁰

29. Under Section 101(10) of CERCLA, Fansteel may not incur CERCLA liability for any discharges that comply with the terms of its NPDES permit. The PCC Proof of Claim is premised on CERCLA obligations under Sections 107(a) and 113(f). PCC has provided no basis to demonstrate that the discharge from Fansteel Site exceeded the terms and conditions of its NPDES permit.

The Proof of Claim Must Be Expunged Pursuant to 11 U.S.C. 502(e)(1)(B)

30. Section 502(e)(1)(B) of the Bankruptcy Code provides, in pertinent part:

(e)(1) Notwithstanding subsections (a), (B), and (c) of this subsection, the court shall disallow any claim for reimbursement or contribution of an entity that is liable with the debtor on or has secured the claim, of a creditor, to the extent that...

(B) such claim for reimbursement or contribution is contingent as of the time of allowance or disallowance of such claim for reimbursement or contribution;...

11 U.S.C. § 502(e)(1)(B).

31. Section 502(e)(1)(B) does not allow for discretion, the disallowance of such claims is mandatory. If the claim is (i) contingent, (2) for reimbursement or contribution, and (iii) the claimant is co-liable with the debtor with respect to the claim, it must be disallowed under section 502(e)(1)(B). See In re Pinnacle Brands, Inc., 259 B.R. 46, 55 (Del. 2001), see also; In re Dant & Russell, Inc., 951 F.2d 246, 248 (9th Cir. 1991); In re Hexcel Corp., 174 B.R.

¹⁰ Monthly and quarterly discharge reports from the late 1980's reveal minor variances from permitted concentration levels all of which have been remedied and, in any event, did not involve contaminants that are subject to CERCLA actions at the Vulcan Louisville Smelter Site or the Adjacent Sites.

807, 809 (Bankr. N.D. Cal. 1994); In re Empire Radio Partners, Ltd., 1993 Bankr. LEXIS 1833 (E.D. Pa 1993).

32. PCC's claims are based on contingent claims for reimbursement and contribution under CERCLA Sections 107(a) and 113(f). There can be no doubt that the claim is a contingent claim against Fansteel. The claim involves the estimated amounts of past and potential future costs relating to the remediation of the property that may be (i) attributable to Fansteel and (ii) may be paid by Lavin. There has been no final adjudication as to Fansteel's liability either with respect to the Vulcan Louisville Smelter Site nor has there been any determination that any portion of the liability incurred by Lavin relating to the Vulcan Louisville Smelter Site is attributable to Fansteel.¹¹ Further, because PRPs are jointly and severally liable under CERCLA, Fansteel and Lavin are considered to be "co-liable" with respect to the cleanup of the Vulcan Louisville Smelter Site and the Proof of Claim is, therefore, subject under section 502(e)(1)(B). See, In re The Charter Company, 862 F.2d 1500 (11th Cir. 1989).

33. The three requirements of section 502(e)(1)(B) are satisfied with respect to the Proof of Claim as the Proof of Claim involves a contingent claim based on contribution and reimbursement for obligations where Fansteel is, if any liability should arise, co-liable. The Proof of Claim must, therefore, be disallowed.

34. PCC offers no basis why the Proof of Claim should be excepted from section 502(e)(1)(B). PCC has not liquidated any claims against the Debtors and the Debtors have not acknowledged any liability to PCC. Further, there is no legal basis for which PCC may

¹¹ On information and belief, the primary constituent of concern for the Lavin Site is lead from the Lavin operations that was discharged, disposed or otherwise came to settle in the sediments of Pettibone Creek. In contrast, the 106 Order issued to Fansteel and the EE/CA were primarily concerned with releases of TCE. To the extent that the harms appear to be distinct, Fansteel would not be liable in contribution to Lavin under CERCLA for any liability or response costs that Lavin may incur from releases of lead into the sediments of the Adjacent Properties and of the Vulcan Louisville Smelter Sites.

assert its claim against Fansteel other than the provisions of CERCLA which permit parties to seek reimbursement or contribution claims against other PRPs. PCC has not commenced any such action against Fansteel.

Fansteel has Setoff Rights Against Lavin

35. Even if the PCC Proof of Claim were allowed, the Debtors would have the right of setoff as against Lavin and the Lavin estates as the Debtors have asserted a claim for contribution and reimbursement against Lavin arising from the same CERCLA obligations associated with the Vulcan Louisville Smelter Site and Adjacent Sites and such setoff rights are preserved for the Debtors under Section 553 of the Bankruptcy Code.

36. The claims asserted by PCC against Fansteel and Fansteel against Lavin, respectively, are each based on pre-petition obligations that are mutual in nature arising from the same potential liability under CERCLA. Further, the expenses incurred by Fansteel in connection with response actions at the Vulcan Louisville Smelter Site far exceed any costs incurred by the Lavin estates.¹² Consequently such setoff rights will result in the offset any such claims asserted against Fansteel by PCC.

Reservation of Rights

37. The Debtors hereby reserve the right to object in the future to the Proof of Claim on any additional ground, and to amend, modify and/or supplement this Objection, including without limitation, to object to amended claims and newly-filed claims by PCC or Lavin. Separate notice and hearing will be scheduled for any such objection.

¹² As set forth herein, the Debtors have already incurred costs in excess of \$1 million and expect to incur approximately \$2.6 million in additional expenses. Although the Debtors do not have specific information with respect to expenses incurred by Lavin in respect of the Vulcan Louisville Smelter site, one may reasonably infer from the Post-Confirmation Status Report that the PCC does not expect to pay in excess of \$180,000 on account of such environmental obligations, see Post-Confirmation Status Report at page 5.

Notice

38. Notice of this Motion has been given to (i) counsel for PCC, (ii) the United States Trustee; (iii) counsel to the Committee; (iv) counsel to Fansteel's lenders; (v) counsel to the EPA; (vi) counsel for the Department of the Navy, Department of Defense, Department of the Interior, Department of Commerce, Department of Treasury and the National Oceanic and Atmospheric Administration and (vii) all parties requesting notice pursuant to Fed. R. Bankr. P. 2002. The Debtors submit that the notice provided is appropriate under the circumstances of these Chapter 11 Cases.

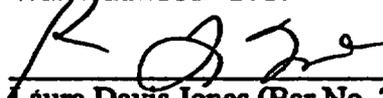
WHEREFORE, the Debtors respectfully request that this Court enter the attached Order and grant them such other and further relief as this Court deems just and proper.

Dated: October 1, 2003

SCHULTE, ROTH & ZABEL LLP
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-and-

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



Laura Davis Jones (Bar No. 2436)
Rosalie L. Spelman (Bar No. 4163)
919 North Market Street, 16th Floor, P.O. Box 8705
Wilmington, Delaware 19899-8705 (Courier 19801)
Telephone: (302) 652-4100
Facsimile: (302) 652-4400

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

Exhibit "A"

Affidavit of Gary L. Tessitore

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

	X	
In re:	:	Chapter 11
FANSTEEL, INC., <u>et al.</u> ¹ ,	:	Case No. 02-10109 (JJF)
	:	Jointly Administered
the former Debtors.	:	
	:	
	X	

STATE OF ILLINOIS)
) SS.:
COUNTY OF COOK)

**AFFIDAVIT OF GARY L. TESSITORE IN SUPPORT OF THE DEBTORS'
OBJECTION TO CLAIM OF THE POST CONFIRMATION COMMITTEE ON
BEHALF OF THE ESTATES OF R. LAVIN & SONS, INC.**

GARY L. TESSITORE, being duly sworn, deposes and states:

1. I am Chairman of the Board, President and Chief Executive Officer of Fansteel, Inc. ("Fansteel"), one of the debtors and debtors in possession herein, and the direct or indirect parent corporation of all the Debtors (as defined in the Objection). I am also a director of each of the other Debtors. In these capacities, I have responsibility for ongoing commercial and operational matters, litigation, environmental, and health and safety. I am intimately familiar with the Debtors' day-to-day operations, business affairs and books and records. I have also been directly involved in the Debtors' efforts since the commencement of these chapter 11 cases (the "Chapter 11 Cases") to achieve a consensual agreement for a proposed joint plan of reorganization among the Debtors' key creditor constituents.

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.

2. I am familiar with Fansteel's books and records, schedules and claims reconciliation process. I am also familiar with and oversee the on-going negotiations related to the various environmental obligations of the Debtors, including without limitation, the claims arising from the Vulcan Louisville Smelter Site², as described in the Objection, (collectively, the "Reconciliation Process"). Further, I am familiar with the Fansteel Claim asserted in the Lavin bankruptcy cases and the nature of the obligations incurred by Fansteel in respect of the response actions associated with the Vulcan Louisville Smelter Site. I submit this declaration in support of the Debtors' objection to the proof of claim (the "Proof of Claim") of R.Lavin & Sons, Inc. ("Lavin") c/o the Post-Confirmation Committee authorized to liquidate the assets of Lavin bankruptcy estates (the "PCC") dated August 28, 2002 and filed against Fansteel Inc., Fansteel Holdings, Inc., Custom Technologies Corp. and Phoenix Aerospace Corp. on September 5, 2002 and make this Declaration on the basis of my review of Fansteel's books and records relating to the Proof of Claim, together with any supporting or related documentation.

3. The Debtor maintains books and records that reflect, among other things, the Debtor's administrative liabilities and respective amounts owed to their creditors.

4. I oversee and coordinate the Reconciliation Process which involves a coordinated effort between the Debtor's staff and Bankruptcy Management Corp. (the "Claims Agent"). To facilitate the preparation and filing of the Objection, I participated in a review of both the Proof of Claim, identifying those claims that should potentially be allowed or disallowed, and the Debtor's books and records with respect to the Proof of Claim. I have also

² Capitalized terms not otherwise defined herein shall have the meanings ascribed in the Objection.

read the Objection and am familiar with the information contained therein. I believe that the information contained in the Objection is true and correct to the best of my knowledge.

5. PCC has asserted a claim against Fansteel, as set forth in the Proof of Claim, for reimbursement and contribution expenses related to the remediation of releases of hazardous substances at the Vulcan Louisville Smelter Site and the Adjacent Sites. Although Fansteel has been identified as a potentially responsible party under CERCLA with respect to the Vulcan Louisville Smelter Site and Adjacent Sites, anticipates entering into a consent decree with the EPA, the Department of Navy, the Department of Interior and the National Oceanic and Atmospheric Administration, pursuant to its plan of reorganization, resolving the claims of the parties under CERCLA, there has been no final adjudication setting forth Fansteel's CERLA liability in this regard. Further, Fansteel has not agreed to pay any penalties associated with these sites.

6. Based on the Reconciliation Process, the Debtor has determined that the PCC Proof of Claim should be disallowed for the reasons stated in the Objection. I believe that the PCC Proof of Claim is appropriately the subject of an objection by the Debtor.

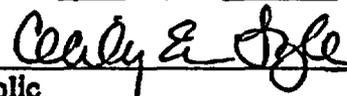
7. Accordingly, I believe that the Debtor should be granted the relief requested in the Objection.

Affiant further sayth not.



Gary L. Tessitore

SUBSCRIBED AND SWORN TO
Before me this 1st day of OCT 2003.



Notary Public
My Commission Expires: 1-21-2007

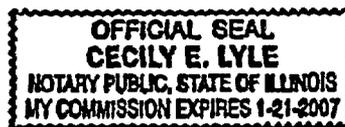


Exhibit "B"

The Lavin Proofs of Claim

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

PROOF OF CLAIM

In re: **FANSTEEL, INC., et al.**

Case Number: **02-10109**

NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 502.

Name of Creditor and Address:
**R. Levin & Sons Inc.
 c/o Post-Confirmation Committee
 David Abrams
 Abrams & Jossel Consulting Inc.
 39 E. LaSalle St., #1410
 Chicago, IL 60603**

- Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.
- Check box if you have never received any notices from the bankruptcy court in this case.
- Check box if this address differs from the address on the envelope sent to you by the court.

If you have already filed a proof of claim with the Bankruptcy Court or BMC, you do not need to file again.

Creditor Telephone Number: **312-629-8585**

CREDITOR TAX ID # _____ ACCOUNT OR OTHER NUMBER BY WHICH CREDITOR IDENTIFIES DEBTOR: _____

Check here replaces or amends a previously filed claim dated _____

- 1. BASIS FOR CLAIM**
- Goods sold Personal injury/wrongful death Retiree benefits as defined in 11 U.S.C. § 1114(a)
- Services performed Taxes Wages, salaries, and compensation (Fill out below)
- Money loaned Other (describe briefly) See Rider Your social security number _____
- Unpaid compensation for services performed from _____ to _____ (date) (date)

2. DATE DEBT WAS INCURRED: Environmental Contamination **3. IF COURT JUDGMENT, DATE OBTAINED:** _____

4. TOTAL AMOUNT OF CLAIM AS OF PETITION DATE: \$ In excess of \$1,000,000.00 \$ _____ \$ In excess of \$1,000,000.00

(unsecured) (secured) (priority) (total)

If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below.

Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.

5. SECURED CLAIM

Check this box if your claim is secured by collateral (including a right of estoppel)

Brief description of collateral: _____

Real Estate
 Motor Vehicle
 Other _____

Value of collateral \$ _____

Amount of arrearage and other charges at time case filed included in secured claim above if any \$ _____

6. UNSECURED PRIORITY CLAIM

Check this box if you have an unsecured priority claim

Specify the priority of the claim:

Wages, salaries, or commissions (up to \$4,650*), earned within 90 days before filing of the bankruptcy petition or cessation of the Debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(2)

Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(4)

Up to \$2,100* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(5)

Alimony maintenance or support owed to a spouse, former spouse, or child - 11 U.S.C. § 507(a)(7)

Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8)

Other - Specify applicable paragraph of 11 U.S.C. § 507(a) _____

*Amounts are subject to adjustment on 4/30/01 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.

7. CREDITS: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.

8. SUPPORTING DOCUMENTS: Attach copies of supporting documents such as promissory notes, purchase orders, invoices, itemized statements of nursing accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS if the documents are not available, explain. If the documents are voluminous, attach a summary.

9. DATE-STAMPED COPY: To receive an acknowledgment of your claim, please enclose a self-addressed stamped envelope and an additional copy of your claim.

The original of this completed proof of claim form must be sent by mail or hand delivered (FAXES NOT ACCEPTED) so that it is received on or before 4:00 pm, Eastern Time on September 23, 2002.

BY MAIL TO:
 Bankruptcy Management Corp
 P O BOX 1059
 El Segundo, CA 90245-1059

BY HAND OR OVERNIGHT DELIVERY TO:
 Bankruptcy Management Corp
 1330 East Franklin Avenue
 El Segundo, CA 90245

**THIS SPACE FOR COURT
 USE ONLY**

FILED

SEP 05 2002

BMC

DATE SIGNED: **8/28/02**

SIGN and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any):
D. Abrams

Penalty for presenting fraudulent claim is a fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 AND 3571.
 By: **David Abrams, not individually, but solely as Director, Agent and Chairman of R. Levin & Sons, Inc. Post**



RIDER TO PROOF OF CLAIM OF R. LAVIN & SONS, INC (Page 1 of 2)

On February 26, 2001, an involuntary petition was filed against the Claimant herein, R Lavin & Sons, Inc ("Lavin") under Section 303(b) of the Bankruptcy Code in the U S Bankruptcy Court for the Northern District of Illinois, Eastern Division, Case No 01 B 06301 (the "Bankruptcy Court" or "Lavin Bankruptcy Case") Subsequently, on March 20, 2001, Lavin consented to the entry of an order for relief under Chapter 11 of the Bankruptcy Code in the Lavin Bankruptcy Case On September 13, 2001, the Bankruptcy Court entered an Order which confirmed the Official Unsecured Creditors' Committee's Amended Liquidating Plan of Reorganization dated August 9, 2001 ("Liquidation Plan") Pursuant to the terms of the Liquidation Plan, the Post-Confirmation Committee ("Committee") was established, and is authorized and directed to liquidate Lavin's assets and properties for the benefit of Lavin's creditors and wind up the affairs of Lavin Under the Liquidation Plan, David Abrams was appointed Disbursing Agent for the Lavin estate and Chairman of the Committee (collectively, the "Lavin Disbursing Agent")

Mr Abrams has signed this proof of claim, not individually, but solely in his capacity as the Lavin Disbursing Agent and upon information and belief

Of the various Fansteel affiliates and entities which commenced Chapter 11 cases in the District of Delaware, to the best of the Lavin Disbursing Agent's knowledge, information and belief, the following Fansteel debtors reflect their principal place of business at One Tantalum Place, North Chicago, Illinois (collectively, the "Fansteel/North Chicago Entities")

Fansteel, Inc	Case No 02-10109
Fansteel Holdings, Inc	Case No 02-10110
Phoenix Aerospace Corp	Case No 02-10114
Custom Technologies Corp	Case No 02-10111

The Lavin Disbursing Agent does not have any independent information concerning nature of the actual business operations conducted by each of the Fansteel/North Chicago Entities at their North Chicago site, or which of those entities contributed to the environmental claims being addressed in the Lavin Bankruptcy Case Given the proximity between the respective principal places of business of Lavin (2028 Shendan Road, North Chicago, Illinois) and the Fansteel/North Chicago Entities, and in the interest of fully protecting the interests of the creditors of Lavin, the Lavin Disbursing Agent has filed this proof of claim in each of the above referenced cases pending in Delaware In the event that the Lavin Disbursing Agent subsequently discovers that one or more of the Fansteel/North Chicago Entities did not conduct business operations from the North Chicago site notwithstanding identifying it as their principal place of business, the Lavin Disbursing Agent will withdraw any such proof of claim which is ultimately shown not to be applicable

RIDER TO PROOF OF CLAIM OF R LAVIN & SONS, INC (Page 2 of 2)

The Debtor's liability to Lavin arises under Section 107(a) and/or Section 113(f) of the Comprehensive, Environmental Response Compensation and Liability Act ("CERCLA") for response costs incurred and to be incurred by Lavin in connection with the investigation and remediation of the R Lavin & Sons, Inc real estate located at 2028 Shendan Road, North Chicago, Illinois (the "Lavin Site") and the adjacent Pettibone Creek and U S Navy Harbor, also located in North Chicago, Lake County Illinois (the "Adjacent Sites") Parties liable under Section 107(a) of CERCLA are jointly and severally liable for response costs including any Site Parties liable under Section 113(f) are liable for an equitable portion of response costs

Based upon U S EPA and Department of Navy investigations of the Lavin Site and Adjacent Sites, the Department of Justice has filed proofs of claim in the Lavin Bankruptcy Case for recovery of environmental response costs and damages for injury to, destruction of, or loss of natural resources in the amount of approximately \$12,304,400 00 to \$17,804,400 00 Upon information and belief, the Debtor conducts and/or conducted operations at its facility located at North Chicago, Illinois which is located directly west of the Lavin Site, which, in turn, is located west of the Adjacent Sites Operations conducted at Debtor's facility have resulted in and contributed to the release of the hazardous substances or wastes to the surface and subsurface, including groundwater, of the Lavin and Adjacent Sites The documents supporting Lavin's claim are too voluminous to be attached hereto, and further information and documentation of Lavin's claim against the Debtor is available

The Committee continues to investigate the facts and circumstances giving rise to possible additional claims against the Debtor, and expressly reserves the right to amend this proof of claim as necessary and appropriate

Chad H Gettleman, Esq
Adelman, Gettleman, Merens, Bensch & Carter, Ltd
53 W Jackson Blvd , Suite 1050
Chicago, IL 60604
(312) 435-1050

Kenneth W Funk
Deutsch, Levy & Engel, Chtd
225 W Washington St , Suite 1700
Chicago, Illinois 60606
(312) 346-1460

Attorneys for the Post-Confirmation Committee of R Lavin & Sons, Inc

RIDER TO PROOF OF CLAIM OF R. LAVIN & SONS, INC (Page 1 of 2)

On February 26, 2001, an involuntary petition was filed against the Claimant herein, R. Lavin & Sons, Inc ("Lavin") under Section 303(b) of the Bankruptcy Code in the U.S. Bankruptcy Court for the Northern District of Illinois, Eastern Division, Case No. 01 B 06301 (the "Bankruptcy Court" or "Lavin Bankruptcy Case"). Subsequently, on March 20, 2001, Lavin consented to the entry of an order for relief under Chapter 11 of the Bankruptcy Code in the Lavin Bankruptcy Case. On September 13, 2001, the Bankruptcy Court entered an Order which confirmed the Official Unsecured Creditors' Committee's Amended Liquidating Plan of Reorganization dated August 9, 2001 ("Liquidation Plan"). Pursuant to the terms of the Liquidation Plan, the Post-Confirmation Committee ("Committee") was established, and is authorized and directed to liquidate Lavin's assets and properties for the benefit of Lavin's creditors and wind up the affairs of Lavin. Under the Liquidation Plan, David Abrams was appointed Disbursing Agent for the Lavin estate and Chairman of the Committee (collectively, the "Lavin Disbursing Agent").

Mr. Abrams has signed this proof of claim, not individually, but solely in his capacity as the Lavin Disbursing Agent and upon information and belief.

Of the various Fansteel affiliates and entities which commenced Chapter 11 cases in the District of Delaware, to the best of the Lavin Disbursing Agent's knowledge, information and belief, the following Fansteel debtors reflect their principal place of business at One Tantalum Place, North Chicago, Illinois (collectively, the "Fansteel/North Chicago Entities"):

Fansteel, Inc	Case No 02-10109
Fansteel Holdings, Inc.	Case No 02-10110
Phoenix Aerospace Corp	Case No 02-10114
Custom Technologies Corp	Case No 02-10111

The Lavin Disbursing Agent does not have any independent information concerning the nature of the actual business operations conducted by each of the Fansteel/North Chicago Entities at their North Chicago site, or which of those entities contributed to the environmental claims being addressed in the Lavin Bankruptcy Case. Given the proximity between the respective principal places of business of Lavin (2028 Shendan Road, North Chicago, Illinois) and the Fansteel/North Chicago Entities, and in the interest of fully protecting the interests of the creditors of Lavin, the Lavin Disbursing Agent has filed this proof of claim in each of the above referenced cases pending in Delaware. In the event that the Lavin Disbursing Agent subsequently discovers that one or more of the Fansteel/North Chicago Entities did not conduct business operations from the North Chicago site notwithstanding identifying it as their principal place of business, the Lavin Disbursing Agent will withdraw any such proof of claim which is ultimately shown not to be applicable.

RIDER TO PROOF OF CLAIM OF R LAVIN & SONS, INC (Page 2 of 2)

The Debtor's liability to Lavin arises under Section 107(a) and/or Section 113(f) of the Comprehensive, Environmental Response Compensation and Liability Act ("CERCLA") for response costs incurred and to be incurred by Lavin in connection with the investigation and remediation of the R Lavin & Sons, Inc real estate located at 2028 Shendan Road, North Chicago, Illinois (the "Lavin Site") and the adjacent Pettibone Creek and U S Navy Harbor, also located in North Chicago, Lake County Illinois (the "Adjacent Sites") Parties liable under Section 107(a) of CERCLA are jointly and severally liable for response costs including any Site Parties liable under Section 113(f) are liable for an equitable portion of response costs

Based upon U S EPA and Department of Navy investigations of the Lavin Site and Adjacent Sites, the Department of Justice has filed proofs of claim in the Lavin Bankruptcy Case for recovery of environmental response costs and damages for injury to, destruction of, or loss of natural resources in the amount of approximately \$12,304,400 00 to \$17,804,400 00 Upon information and belief, the Debtor conducts and/or conducted operations at its facility located at North Chicago, Illinois which is located directly west of the Lavin Site, which, in turn, is located west of the Adjacent Sites Operations conducted at Debtor's facility have resulted in and contributed to the release of the hazardous substances or wastes to the surface and subsurface, including groundwater, of the Lavin and Adjacent Sites The documents supporting Lavin's claim are too voluminous to be attached hereto, and further information and documentation of Lavin's claim against the Debtor is available

The Committee continues to investigate the facts and circumstances giving rise to possible additional claims against the Debtor, and expressly reserves the right to amend this proof of claim as necessary and appropriate

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Chicago, Illinois 60606
(312) 346-1460

Attorneys for the Post-Confirmation Committee of R Lavin & Sons, Inc

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

PROOF OF CLAIM

In re: **PHOENIX AEROSPACE CORP.** Case Number **02-10114**

NOTE This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 603.

Name of Creditor and Address:
R. Lavin & Sons Inc.
c/o Post-Confirmation Committee
David Abrams
Abrams & Jossel Consulting Inc.
39 S. LaSalle St., #1410
Chicago, IL 60603

Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.

Check box if you have never received any notices from the bankruptcy court in this case.

Check box if this address differs from the address on the envelope sent to you by the court.

If you have already filed a proof of claim with the Bankruptcy Court or BMC, you do not need to file again.

Creditor Telephone Number () **312-629-8585**

CREDITOR TAX ID # _____ ACCOUNT OR OTHER NUMBER BY WHICH CREDITOR IDENTIFIES DEBTOR. _____

Check here replaces or amends a previously filed claim dated _____

1. BASIS FOR CLAIM

Goods sold Personal injury/wrongful death Retiree benefits as defined in 11 U.S.C. § 1114(a)

Services performed Taxes Wages, salaries, and compensation (Fill out below)

Money loaned Other (describe briefly) See Rider Your social security number _____

Unpaid compensation for services performed from _____ to _____

Continuing (date) (date)

2. DATE DEBT WAS INCURRED Environmental Contamination **3. IF COURT JUDGMENT, DATE OBTAINED:**

4. TOTAL AMOUNT OF CLAIM AS OF PETITION DATE. \$ In excess of \$1,000,000.00 _____ \$ In excess of \$1,000,000.00 _____

Unsecured (secured) (priority) (total)

If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below

Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.

5. SECURED CLAIM

Check this box if your claim is secured by collateral (including a right of setoff)

Brief description of collateral

Real Estate

Motor Vehicle

Other _____

Value of collateral \$ _____

Amount of arrearage and other charges at time case filed included in secured claim above if any \$ _____

6. UNSECURED PRIORITY CLAIM

Check this box if you have an unsecured priority claim

Specify the priority of the claim

Wages, salaries, or commissions (up to \$4,650*), earned within 90 days before filing of the bankruptcy petition or cessation of the Debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(3)

Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(4)

Up to \$2,100* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(5)

Alimony maintenance or support owed to a spouse, former spouse, or child 11 U.S.C. § 507(a)(7)

Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8)

Other - Specify applicable paragraph of 11 U.S.C. § 507(a) _____

*Amounts are subject to adjustment on 4/01 and every 3 years thereafter with respect to cases commenced on or after the date of such adjust.

7. CREDITS The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim

8. SUPPORTING DOCUMENTS Attach copies of supporting documents such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS if the documents are not available, explain. If the documents are voluminous, attach a summary.

9. DATE-STAMPED COPY To receive an acknowledgment of your claim, please enclose a self-addressed stamped envelope and an additional copy of your claim.

The original of this completed proof of claim form must be sent by mail or hand delivered (FAXES NOT ACCEPTED) so that it is received on or before 4:00 pm, Eastern Time on September 23, 2002

BY MAIL TO: Bankruptcy Management Corp
P O BOX 1059
El Segundo, CA 90245-1059

BY HAND OR OVERNIGHT DELIVERY TO: Bankruptcy Management Corp
1330 East Franklin Avenue
El Segundo, CA 90245

THIS SPACE FOR COURT USE ONLY

FILED

SEP 05 2002

BMC

DATE SIGNED **8/28/02**

SIGN and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any)

D. Abrams

Penalty for presenting fraudulent claim is a fine of up to \$500,000 or imprisonment for up to 5 years, or both 18 U.S.C. §§ 152 AND 3571

By: **David Abrams, not individually, but solely as Disb Agent and Chairman of R. Lavin & Sons, Inc. Post-C**



RIDER TO PROOF OF CLAIM OF R. LAVIN & SONS, INC (Page 1 of 2)

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Mr Abrams has signed this proof of claim, not individually, but solely in his capacity as the Lavin Disbursing Agent and upon information and belief

Of the various Fansteel affiliates and entities which commenced Chapter 11 cases in the District of Delaware, to the best of the Lavin Disbursing Agent's knowledge, information and belief, the following Fansteel debtors reflect their principal place of business at One Tantalum Place, North Chicago, Illinois (collectively, the "Fansteel/North Chicago Entities")

Fansteel, Inc	Case No 02-10109
Fansteel Holdings, Inc	Case No 02-10110
Phoenix Aerospace Corp	Case No 02-10114
Custom Technologies Corp	Case No 02-10111

The Lavin Disbursing Agent does not have any independent information concerning nature of the actual business operations conducted by each of the Fansteel/North Chicago Entities at their North Chicago site, or which of those entities contributed to the environmental claims being addressed in the Lavin Bankruptcy Case Given the proximity between the respective principal places of business of Lavin (2028 Shendan Road, North Chicago, Illinois) and the Fansteel/North Chicago Entities, and in the interest of fully protecting the interests of the creditors of Lavin, the Lavin Disbursing Agent has filed this proof of claim in each of the above referenced cases pending in Delaware In the event that the Lavin Disbursing Agent subsequently discovers that one or more of the Fansteel/North Chicago Entities did not conduct business operations from the North Chicago site notwithstanding identifying it as their principal place of business, the Lavin Disbursing Agent will withdraw any such proof of claim which is ultimately shown not to be applicable

RIDER TO PROOF OF CLAIM OF R LAVIN & SONS, INC (Page 2 of 2)

The Debtor's liability to Lavin arises under Section 107(a) and/or Section 113(f) of the Comprehensive, Environmental Response Compensation and Liability Act ("CERCLA") for response costs incurred and to be incurred by Lavin in connection with the investigation and remediation of the R Lavin & Sons, Inc real estate located at 2028 Shendan Road, North Chicago, Illinois (the "Lavin Site") and the adjacent Pettibone Creek and U S Navy Harbor, also located in North Chicago, Lake County Illinois (the "Adjacent Sites") Parties liable under Section 107(a) of CERCLA are jointly and severally liable for response costs including any Site Parties liable under Section 113(f) are liable for an equitable portion of response costs

Based upon U S EPA and Department of Navy investigations of the Lavin Site and Adjacent Sites, the Department of Justice has filed proofs of claim in the Lavin Bankruptcy Case for recovery of environmental response costs and damages for injury to, destruction of, or loss of natural resources in the amount of approximately \$12,304,400 00 to \$17,804,400 00 Upon information and belief, the Debtor conducts and/or conducted operations at its facility located at North Chicago, Illinois which is located directly west of the Lavin Site, which, in turn, is located west of the Adjacent Sites Operations conducted at Debtor's facility have resulted in and contributed to the release of the hazardous substances or wastes to the surface and subsurface, including groundwater, of the Lavin and Adjacent Sites The documents supporting Lavin's claim are too voluminous to be attached hereto, and further information and documentation of Lavin's claim against the Debtor is available

The Committee continues to investigate the facts and circumstances giving rise to possible additional claims against the Debtor, and expressly reserves the right to amend this proof of claim as necessary and appropriate

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Kenneth W Funk
Deutsch, Levy & Engel, Chtd
225 W Washington St , Suite 1700
Chicago, Illinois 60606
(312) 346-1460

Attorneys for the Post-Confirmation Committee of R Lavin & Sons, Inc

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

PROOF OF CLAIM

In re.
CUSTOM TECHNOLOGIES CORP.

Case Number
02-10111

NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.

Name of Creditor and Address:
**R. Lavin & Sons Inc.
c/o Post-Confirmation Committee
David Abrams
Abrams & Jossel Consulting Inc.
39 S. LaSalle St., #1410
Chicago, IL 60603**

- Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.
- Check box if you have never received any notices from the bankruptcy court in this case.
- Check box if this address differs from the address on the envelope sent to you by the court.

If you have already filed a proof of claim with the bankruptcy court or BMC, you do not need to file again.

Creditor Telephone Number () **312-629-8585**

CREDITOR TAX ID # _____ ACCOUNT OR OTHER NUMBER BY WHICH CREDITOR IDENTIFIES DEBTOR. Check here replaces or amends a previously filed claim dated _____ if this claim

1. BASIS FOR CLAIM
- Goods sold
 - Services performed
 - Money loaned
 - Personal injury/wrongful death
 - Taxes
 - Other (describe briefly) See Rider
 - Retiree benefits as defined in 11 U.S.C. § 1114(a)
 - Wages, salaries, and compensation (Fill out below)
- Your social security number _____
Unpaid compensation for services performed from _____ to _____ (date) (date)

2. DATE DEBT WAS INCURRED: **Environmental Contamination** (I.F. COURT JUDGMENT, DATE OBTAINED)

4. TOTAL AMOUNT OF CLAIM AS OF PETITION DATE. \$ **In excess of \$1,000,000.00** (secured) \$ _____ (priority) \$ **In excess of \$1,000,000.00** (total)

If all or part of your claim is secured or entitled to priority, also complete item 5 or 6 below.
 Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.

5. SECURED CLAIM
 Check this box if your claim is secured by collateral (including a right of setoff).
Brief description of collateral:
 Real Estate
 Motor Vehicles
 Other _____
Value of collateral \$ _____
Amount of arrearage and other charges at time case filed included in secured claim above if any \$ _____

6. UNSECURED PRIORITY CLAIM
 Check this box if you have an unsecured priority claim.
Specify the priority of the claim:
 Wages, salaries, or commissions (up to \$4,650*), earned within 90 days before filing of the bankruptcy petition or cessation of the Debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(5)
 Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(4)
 Up to \$2,100* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(6)
 Alimony maintenance or support owed to a spouse, former spouse, or child - 11 U.S.C. § 507(a)(7)
 Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8)
 Other - Specify applicable paragraph of 11 U.S.C. § 507(a) _____
*Amounts are subject to adjustment in 4301 and every 3 years thereafter with respect to cases commenced on or after the date of each statute.

7. CREDITS: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.

8. SUPPORTING DOCUMENTS: Attach copies of supporting documents such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS if the documents are not available, explain. If the documents are voluminous, attach a summary.

9. DATE-STAMPED COPY: To receive an acknowledgment of your claim, please enclose a self-addressed stamped envelope and an additional copy of your claim.

The original of this completed proof of claim form must be sent by mail or hand delivered (FAXES NOT ACCEPTED) so that it is received on or before 4:00 pm, Eastern Time on September 23, 2002.

BY MAIL TO: Bankruptcy Management Corp, P O BOX 1059, El Segundo, CA 90245-1059

BY HAND OR OVERNIGHT DELIVERY TO: Bankruptcy Management Corp, 1330 East Franklin Avenue, El Segundo, CA 90245

THIS SPACE FOR COURT USE ONLY

FILED
SEP 05 2002
BMC

DATE SIGNED: **8/28/02**

SIGN and print the name and title, if any, of the creditor or other person authorized to file this claim. Attach copy of power of attorney, if any.
D. Abrams

Penalty for presenting fraudulent claim is a fine of up to \$500,000 or imprisonment for up to 5 years, or both 18 U.S.C. §§ 152 AND 2571
By: **David Abrams, not individually, but solely as Disbursing Agent and Chairman of R. Lavin & Sons, Inc. Post-**



RIDER TO PROOF OF CLAIM OF R LAVIN & SONS, INC (Page 1 of 2)

On February 26, 2001, an involuntary petition was filed against the Claimant herein, R Lavin & Sons, Inc ("Lavin") under Section 303(b) of the Bankruptcy Code in the U S Bankruptcy Court for the Northern District of Illinois, Eastern Division, Case No 01 B 06301 (the "Bankruptcy Court" or "Lavin Bankruptcy Case") Subsequently, on March 20, 2001, Lavin consented to the entry of an order for relief under Chapter 11 of the Bankruptcy Code in the Lavin Bankruptcy Case On September 13, 2001, the Bankruptcy Court entered an Order which confirmed the Official Unsecured Creditors' Committee's Amended Liquidating Plan of Reorganization dated August 9, 2001 ("Liquidation Plan") Pursuant to the terms of the Liquidation Plan, the Post-Confirmation Committee ("Committee") was established, and is authorized and directed to liquidate Lavin's assets and properties for the benefit of Lavin's creditors and wind up the affairs of Lavin Under the Liquidation Plan, David Abrams was appointed Disbursing Agent for the Lavin estate and Chairman of the Committee (collectively, the "Lavin Disbursing Agent")

Mr Abrams has signed this proof of claim, not individually, but solely in his capacity as the Lavin Disbursing Agent and upon information and belief

Of the various Fansteel affiliates and entities which commenced Chapter 11 cases in the District of Delaware, to the best of the Lavin Disbursing Agent's knowledge, information and belief, the following Fansteel debtors reflect their principal place of business at One Tantalum Place, North Chicago, Illinois (collectively, the "Fansteel/North Chicago Entities")

Fansteel, Inc	Case No 02-10109
Fansteel Holdings, Inc	Case No 02-10110
Phoenix Aerospace Corp	Case No 02-10114
Custom Technologies Corp	Case No 02-10111

The Lavin Disbursing Agent does not have any independent information concerning nature of the actual business operations conducted by each of the Fansteel/North Chicago Entities at their North Chicago site, or which of those entities contributed to the environmental claims being addressed in the Lavin Bankruptcy Case Given the proximity between the respective principal places of business of Lavin (2028 Shendan Road, North Chicago, Illinois) and the Fansteel/North Chicago Entities, and in the interest of fully protecting the interests of the creditors of Lavin, the Lavin Disbursing Agent has filed this proof of claim in each of the above referenced cases pending in Delaware In the event that the Lavin Disbursing Agent subsequently discovers that one or more of the Fansteel/North Chicago Entities did not conduct business operations from the North Chicago site notwithstanding identifying it as their principal place of business, the Lavin Disbursing Agent will withdraw any such proof of claim which is ultimately shown not to be applicable

RIDER TO PROOF OF CLAIM OF R LAVIN & SONS, INC (Page 2 of 2)

The Debtor's liability to Lavin arises under Section 107(a) and/or Section 113(f) of the Comprehensive, Environmental Response Compensation and Liability Act ("CERCLA") for response costs incurred and to be incurred by Lavin in connection with the investigation and remediation of the R Lavin & Sons, Inc real estate located at 2028 Shendan Road, North Chicago, Illinois (the "Lavin Site") and the adjacent Pettibone Creek and U S Navy Harbor, also located in North Chicago, Lake County Illinois (the "Adjacent Sites") Parties liable under Section 107(a) of CERCLA are jointly and severally liable for response costs including any Site Parties liable under Section 113(f) are liable for an equitable portion of response costs

Based upon U S EPA and Department of Navy investigations of the Lavin Site and Adjacent Sites, the Department of Justice has filed proofs of claim in the Lavin Bankruptcy Case for recovery of environmental response costs and damages for injury to, destruction of, or loss of natural resources in the amount of approximately \$12,304,400 00 to \$17,804,400 00 Upon information and belief, the Debtor conducts and/or conducted operations at its facility located at North Chicago, Illinois which is located directly west of the Lavin Site, which, in turn, is located west of the Adjacent Sites Operations conducted at Debtor's facility have resulted in and contributed to the release of the hazardous substances or wastes to the surface and subsurface, including groundwater, of the Lavin and Adjacent Sites The documents supporting Lavin's claim are too voluminous to be attached hereto, and further information and documentation of Lavin's claim against the Debtor is available

The Committee continues to investigate the facts and circumstances giving rise to possible additional claims against the Debtor, and expressly reserves the right to amend this proof of claim as necessary and appropriate

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Attorneys for the Post-Confirmation Committee of R Lavin & Sons, Inc

Exhibit "C"

Post Confirmation Status Report

SEP 20 2002
FILED
 UNITED STATES BANKRUPTCY COURT
 NORTHERN DISTRICT OF ILLINOIS
 SEP 19 2002
 KENNETH S. GARDNER, CLERK
 PS REP. - KG

**IN THE UNITED STATES BANKRUPTCY COURT
 FOR THE NORTHERN DISTRICT OF ILLINOIS
 EASTERN DIVISION**

IN RE:)	CHAPTER 11
)	
R. LAVIN & SONS, INC.,)	Case No. 01 B 06301
)	
Debtor.)	The Honorable Ronald Barliant

POST-CONFIRMATION STATUS REPORT

NOW COMES the Post-Confirmation Committee of R. Lavin & Sons, Inc., the above named debtor ("Debtor"), and in response to this Court's Order for Report on Status dated August 19, 2002, respectfully states as follows:

1. **Description of Debtor.** For many years, the Debtor was engaged in business as a secondary smelter and refiner of copper-based alloys operating from its primary facilities located at 2028 Sheridan Road, North Chicago, Illinois (the "Facility"). On February 26, 2001, an involuntary petition commencing this case was filed in this District against the Debtor under Section 303(b) of the Bankruptcy Code. Subsequently, on March 20, 2001, the Debtor consented to the entry of an order herein for relief under Chapter 11 of the Bankruptcy Code. On or about July 18, 2001, the Debtor was forced to suddenly and unexpectedly shut down its business operations when due to substantial operating losses sustained during June 2001, the Debtor could no longer borrow any additional working capital.

2. **Present Status of Case.** The Debtor's demise required the immediate commencement of the complete liquidation of all of the assets in this estate for purposes of distribution of those proceeds to the creditors in this case. The Official Committee of Unsecured Creditors herein believed that the liquidation process should proceed under creditor control, and to that end, filed the Creditors' Committee's Amended Liquidating Plan of Reorganization dated August 9, 2001 ("Liquidation Plan"). The Liquidation Plan was confirmed by order of this Court dated September 13, 2001. Pursuant to the terms of the Liquidation Plan, the Post-Confirmation Committee ("Committee") was established, and is authorized and directed to liquidate the Debtor's assets and properties for the benefit of the creditors herein and wind up the affairs of the Debtor. Under the Liquidation Plan, David Abrams of Abrams & Jossel Consulting, Inc., 39 S. LaSalle Street, Suite 1410, Chicago, Illinois 60603 (Tel. 312-629-8585), a financial consulting firm with substantial experience in insolvency matters, was appointed Disbursing Agent for the Debtor's estate and Chairman of the Committee. The remaining three members of the Committee are unsecured creditors herein holding claims in the aggregate of almost \$2 million (total unsecured trade claims approximate \$10 million per the Debtor's schedules), and were formerly members of the Official Unsecured Creditors' Committee in the Chapter 11 case. The Committee's efforts commenced on or about September 24, 2001.

In sum, over the past year, the Committee, through its representatives, has, among other things, performed the following tasks, many of which are continuing to date:

- (a) completed the sale of all of the Debtor's remaining inventory generating sales proceeds of approximately \$500,000;
- (b) negotiated the terms and conditions of the public auction agreement for all of the Debtor's machinery and equipment with Michael Fox Auctioneers;
- (c) completed the nationally advertised machinery and equipment auction, which was conducted on May 30, 2002 and generated net sales proceeds to the estate of approximately \$361,000;
- (d) collected approximately \$750,000 of outstanding accounts receivable;
- (e) negotiated payment plans for the repayment of approximately \$462,000 of outstanding accounts receivable owing the Debtor from several of its customers;
- (f) pursued collection efforts for all of the Debtor's remaining accounts receivable (approximately \$840,000), including, retaining special collection counsel on a contingency fee basis to commence collection actions against approximately 13 account debtors owing the estate some \$300,000;
- (g) retained environmental special counsel and consultants needed to address a multitude of environmental issues relating to the Debtor's prior business activities and the Committee's current liquidation efforts;
- (h) had significant discussions with the many representatives of various federal, state and local governmental agencies, including: Federal - U.S. Department of the Navy; U.S. Department of the Interior; National Oceanic and Atmospheric Administration of the U.S. Department of Commerce; U. S. Environmental Protection Agency ("USEPA"); and U.S. Department of Justice, Environmental Enforcement Division ("USDOJ"); State - Illinois Attorney General's Office and Illinois Environmental Protection Agency; Local - Metropolitan Water Reclamation District of Chicago, North Shore Sanitary District (Lake County, Illinois), and City of North Chicago, regarding a host of environmental issues related to environmental clean up efforts at the Facility, real estate sales efforts for the Facility, multi-million dollar environmental related claims filed in this case by various of the aforementioned federal, state and local governmental agencies (collectively, the "Environmental Claims"); prosecution and settlement of insurance litigation causes of action; and related environmental issues;
- (i) continued to address the removal of various waste and other contaminated materials (hazardous and non-hazardous) from the Facility (i.e. approximately 2,000,000 gallons of storm, sewer and processed water; 6-8 million pounds of slag piles; sludge; bag house dust; etc.);

(j) conducted discussions for the sale or other disposition of the Facility with potential real estate brokers, developers, purchasers and lessors, including, the City of North Chicago, Illinois;

(k) discussed and reviewed the possible retention of an alternative dispute resolution firm to assist the parties in resolving all environmental and insurance related issues and claims;

(l) continued prosecuting the Debtor's insurance litigation pending in the Circuit Court of Cook County, Illinois (*R. Lavin & Sons, Inc. v. Liberty Mutual Insurance Company, et al.*, Case No. 00 C11 0938), in which action the Debtor seeks to recover claims under various of the Debtor's prior liability insurance policies for environmental expenditures made by the Debtor over the years, and by way of amendment by the Committee, also seeks coverage for the Environmental Claims filed in this case (the "Environmental Insurance Litigation");

(m) continued various settlement negotiations with certain of the defendants in the Environmental Insurance Litigation;

(n) resolved various utility service issues arising at the Facility;

(o) commenced an analysis of the claims listed by the Debtor in its bankruptcy schedules against the claims registers reflecting all proofs of claim filed in the case;

(p) amended the Liquidation Plan to extend the time within which the Committee must review and object to unsecured claims so as to avoid unnecessary legal expenses at this time;

(q) maintained, preserved, reviewed, analyzed and organized the multitude of books and records maintained by the Debtor in order to facilitate the liquidation effort, including all necessary tax and other required reporting;

(r) maintained and preserved the Facility, including 24 hour per day guard service and all necessary insurance coverage;

(s) handled inquiries from numerous creditors and other interested parties inquiring as to the status of the case and the anticipated timing and extent of any distributions to creditors;

(t) prepared status reports to the Committee and other interested parties as necessary concerning pending matters throughout the ongoing liquidation effort;

(u) retained special labor counsel needed to address various labor issues relating to the Debtor's closure;

(v) reviewed monthly professional compensation requests submitted by the Committee's professionals;

(w) prepared all necessary tax returns, governmental filings and bankruptcy court filings to ensure continued compliance with all applicable laws;

(x) prepared inventory listing of voluminous amounts of company documents for record retention determination and implementation;

(y) assisted the Pension Benefit Guaranty Corporation in organizing and providing it with the essential documentation to assume administration of the Debtor's pension plan;

(z) reviewed and organized the Debtor's historical purchase records and underlying support for submission and recovery of claim in favor of the Debtor in class action suit, as more fully described below;

(aa) prepared disbursements to all post-confirmation creditors for various operating expenses while maintaining and managing the remaining assets in the estate;

(bb) continued review of the implications of the ongoing liquidation efforts in order to address case closing considerations, including review of actual and projected liquidation expenditures; and

(cc) taken such other steps as have become necessary to further the liquidation effort.

3. Dates of Significant Orders Entered in this Case.

(a) March 20, 2001 - Order for Relief under Chapter 11 of the Bankruptcy Code.

(b) April 30, 2001 - Final Financing Order.

(c) September 13, 2001 - Order Confirming Liquidation Plan.

4. Unresolved Matters.

(a) Sale of the Facility (largely dependent upon the resolution of the environmental related matters described below):

(i) Discussions for the sale of the Facility are continuing with the City of North Chicago as well as other parties expressing an interest in acquiring the property. The City of North Chicago has expressed its willingness to take title to the Facility if it will be released from certain environmental claims under RCRA and the Clean Water Act. Neither the federal or state

environmental agencies have formally agreed to such releases, but have indicated a willingness to work toward such a result. The time frame for this to be accomplished is outside the control of the Committee, and thus cannot be predicted at this time. To hopefully defray the carrying costs associated with the Facility (guards, utilities, insurance), the Committee is seeking alternative arrangements with the City of North Chicago in the event that the necessary releases are delayed. Under the Liquidation Plan, the Committee must obtain the Court's approval of any sale of the Facility. Pending further discussions with the City of North Chicago and other interested parties, the Committee may proceed with a motion to sell the Facility within the near future.

(ii) The sale of the Facility is also dependent upon all or a portion of the clean up efforts described below. The Committee made a proposal in March 2002 to address much of the clean up, but as yet, despite receiving the informal indication that the federal and state environmental agencies would support such proposal, the Committee has been unable to obtain the necessary formal acceptance of same. The Committee has submitted various written drafts of agreements to resolve this matter so that the Committee can undertake the necessary clean up to the extent possible. The time frame for obtaining the agencies' formal approval is outside of the control of the Committee, and thus cannot be predicted at this time. The Committee hopes that the necessary approval will be obtained within the next 15 days. If such approval is not forthcoming, the Committee will seek the Court's intervention in order to accomplish the necessary tasks.

(b) Environmental Related Matters:

(i) Negotiations are continuing regarding various clean up efforts at the Facility relating to the removal of certain contaminated materials from the Facility (i.e. approximately 2,000,000 gallons of storm, sewer and processed water; 6-8 million pounds of slag piles; sludge; bag house dust; etc.). In March 2002, representatives of the Committee met with representatives of the federal and state environmental agencies to discuss, among other things, a proposed settlement with one of the defendants in the Environmental Insurance Litigation. Such settlement would provide approximately \$300,000 for the estate and an additional \$180,000 for payment of clean up activities at the Facility. This settlement was the first presented to the agencies for their approval by the Committee. Under the Liquidation Plan, notice of all such settlement proposals must be given to such agencies. If an objection is made, the parties attempt to amicably resolve their differences, and if this cannot be accomplished, the matter can be brought to the Court for adjudication. The agencies objected to such proposed insurance settlement and the March meeting ensued. At the March meeting, the Committee made a proposal which would allow the settlement to be approved and have a portion of the settlement funds (approximately \$180,000) allocated to the clean up of as much of the water, slag and sludge as possible. To that end, the Committee's counsel immediately prepared and circulated a proposed letter agreement to all parties. The Committee also obtained bids for the removal of the water which showed that such removal could be accomplished within the applicable financial constraints. Since the Committee was formed, substantial progress had been made in eliminating portions of the slag pile by allowing certain recyclers to remove the slag at their cost (the slag has no value to the estate and could be extremely costly to remove). Despite various revisions being made to the proposed letter agreement over the past months, to date, it still has not been signed due to the federal agencies' inability to obtain the necessary authorizations. The Committee believes that one of the reasons for the delay

was that subsequent to March 2002, the Facility, which had been a state led environmental site became a federally led environmental site. A CERCLA "Removal Action" was initiated by the USEPA. A federal on site coordinator ("OSC") was appointed. This transition created certain unavoidable delays in the federal agencies' ability to proceed with the Committee's proposal. The OSC has examined the Facility and met with representatives of the Committee. The USEPA has prepared a proposed Agreed Administrative Order on Consent ("AOC") which is necessary under its rules and regulations for any settlement to proceed. Presently, the Committee has submitted a revised letter agreement and revised proposed AOC to the USDOJ and USEPA. The Committee hopes to finalize this agreement within the next two weeks. If approved, the removal of the water/sludge, and funds permitting, the slag, can begin almost immediately after the insurance settlement funds are received (the Committee believes that the insurance settlement offer in question remains open). If sufficient funds from the insurance settlement remain after the removal of the water, the Committee's representatives will apply such excess to the removal of the sludge and slag. Further, the Committee is providing the USEPA with certain information concerning the metal processing company which has offered to remove additional portions of the slag pile at no cost to the estate. Ultimately, if the Committee is able to cause the removal of the water, sludge and slag from the Facility, it will greatly facilitate the Committee's efforts to dispose of the Facility. The estimated time to accomplish the clean up efforts cannot be predicted at this time due to the matters which are outside of the Committee's control, however, if the necessary approval is not obtained from the governmental agencies within the next two weeks, the Committee will seek the intervention of the Court.

(ii) Continued prosecution of the pending Circuit Court of Cook County, Illinois Environmental Insurance Litigation. As stated, the Committee, through its special environmental counsel, Kenneth W. Funk, Esq. and Karen K. Mack, Esq., Deutsch, Levy & Engel, Chtd., has filed an amended complaint in this action to incorporate claims in favor of the estate arising out of the Environmental Claims filed by certain of the governmental agencies in the bankruptcy case. Presently, the parties in that suit are to meet to discuss establishing a discovery schedule. A status hearing has been set for November 18, 2002 before Judge McGann. As more fully discussed below, the time frame for the resolution of this litigation depends on the possible utilization of such litigation to help resolve the Environmental Claims. Absent a settlement, the prosecution of the Environmental Insurance Litigation will be protracted and the resolution of which cannot be predicted.

(iii) Continuing negotiations with the applicable governmental agencies concerning items (a), (b)(i) and (b)(ii) above, and the resolution, by agreement or litigation, of the Environmental Claims. At the meeting with certain of the agencies in March 2002, the Committee discussed the possibility of the agencies agreeing to look only to insurance recoveries in the Environmental Insurance Litigation for repayment of their claims (or clean up of the environmental matters as applicable) thus allowing all non-environmental creditors to receive their pro rata share of any and all other funds generated in the estate. The basis of this suggestion by the Committee was that given the amount of the Environmental Claims, their inclusion with other unsecured claims would so greatly dilute any distribution to the other creditors as to render further liquidation efforts almost meaningless, and that the size of the anticipated liquidation proceeds (other than insurance recoveries) would not be sufficient enough to address the agencies' Environmental Claims in any

meaningful amount. It was suggested by the USDOJ that a possible solution to these issues could be achieved through the services of an alternative dispute resolution firm. One such firm was recommended and representatives of the Committee have subsequently met with representatives of that firm. Discussions are continuing as this process could provide the most realistic means of resolving the agencies' Environmental Claims. Without such resolution, there can be no distribution to the other creditors in the case. The time frame for the resolution of the Environmental Claims cannot be predicted at this time. The federal and state agencies' requests for payment of administrative expenses in this case have been continued by agreement from time to time and are currently set for status hearing on November 1, 2002. A further agreed extension is anticipated.

(iv) Included in the general claims analysis process, the Committee will need to address a proof of claim for contribution to continuing environmental contamination filed in this case by Fansteel, Inc., which operated its factory on adjacent property, and subsequently has filed a number of related Chapter 11 cases in the District of Delaware. In turn, the Committee has filed contribution claims in the Fansteel bankruptcy cases. No discussions have yet begun as the proofs of claim filed in the Fansteel Cases occurred earlier this month.

(v) There remains waste materials around the plant area (i.e. used motor oil, paints) and chemicals from the Debtor's laboratory, all of which must be removed from the Facility. Quotes have been obtained for removal cost at approximately \$20,000-\$40,000. The completion and review of the list of materials needed to be removed and the actual removal should occur within 30-60 days.

(c) Collection of the remaining outstanding accounts receivable. In addition to the payment programs described below, the Disbursing Agent estimates that approximately \$200,000-\$400,000 of the remaining outstanding accounts receivable may still be collectible. The Committee has entered into payment plans with several of the account debtors - representing almost \$500,000 of accounts receivable. All such parties have continued to remain current on their monthly payments. The Disbursing Agent continues to pursue approximately 13 accounts owing the Debtor the aggregate sum of \$76,997.52. The Disbursing Agent has turned over 13 files on a contingency fee basis to special collection counsel, William Schur, Esq., 111 W. Washington St., Suite 737, Chicago, Illinois 60602 (Tel. no. 312-853-0156). These 13 accounts have balances owing to the Debtor in an aggregate amount of almost \$304,000. The Committee cannot predict the outcome of these actions.

(d) Review and analysis of administrative, priority and general unsecured claims filed in this case, followed by any appropriate objections to any or all of such claims and adjudication of such objections. This process has been initially begun, however due to the significant uncertainties caused by the filing of the Environmental Claims, a full blown effort to review and analyze the multitude of claims on file in this case has not yet been made given the attendant costs. The Committee has obtained the entry of a Court order modifying the Liquidation Plan to allow until March 31, 2003 to file objections to claims herein.

(e) Preparation of the corporate federal income tax return for the 2001 tax year which might generate an estimated tax refund for the estate in the amount of \$68,000 showed owing from the Debtor's 2000 tax year return. The 2001 return should be completed within 30-60 days.

(f) Continued review of the Debtor's books and records to determine which documents need to be retained. There are approximately 100 years of records. To date, two 40' trailers fully loaded with unnecessary scrap papers and files have been removed from the premises. This process is painstaking as many boxes labeled, for example, as holding 1942 documents in fact also hold 1998 documents. To date, approximately 251 boxes of "saved" materials dating from 1995 forward have been accumulated, sorted and labeled. This process continues and should be completed within the next 30 days.

(g) Determine the appropriate action to finalize and terminate the Debtor's 401(k) plan which has been delayed due to the inability to locate certain of the plan's participants, all of whom have failed to respond to notifications of the need to terminate their accounts. Typically, a plan cannot be terminated until all participant accounts have been disbursed according to the participant's written instructions. There remains one participant that has failed to provide disbursement information to the plan administrator despite repeated attempts to locate him. Ultimately, the plan can be terminated even if the remaining participant cannot be located upon submission of the appropriate forms. The forms will be submitted within the next week.

(h) Continue to monitor a class action suit pending in the Superior Court of the State of California for the County of San Diego, *National Metals, Inc., et al v. Sumitomo Corporation et al*, Case No. GIC734001. The suit alleges damages to class members, including the Debtor, arising out of collusion to maintain artificially inflated prices for copper during the class period, 1993-1996. The Committee has accumulated information supporting approximately \$48-\$51 million of copper purchases by the Debtor at the inflated prices. The Committee has submitted the support information to the class's lead counsel. Notices sent to class members indicate that a class member's "recognized loss" will be 3% of their total purchases of the subject items. The Committee is further informed that there has been a \$10 million settlement reached with one of the defendants and remaining non-settling defendants include various major financial institutions (i.e. JPMorgan Chase Bank). The Committee does not know how large the class is or whether the claim submitted will be objected to and subject to further negotiation. Further, the Committee does not know how soon any distributions will be made, however, the Committee continues to follow up on this potential asset.

(i) Distribution of available funds to the creditors in accordance with the terms and conditions of the Liquidation Plan. Due to the many outstanding issues in this case, the Committee is unable to predict when or to what extent any distribution can be made to creditors herein.

5. Conclusion.

Given the Debtor's unexpected demise, the complexity of its affairs, and the wide array of environmental issues, the Committee knew from the outset that the liquidation effort would be exceedingly difficult, costly and time consuming. Nonetheless, someone had to be responsible for this undertaking and the Creditors' Committee in the Chapter 11 case felt that any liquidation effort should proceed under direct creditor control. However, while certain of these difficulties were well known, numerous others have arisen over the past year due to the complexity of the Debtor's affairs and the manner in which the Debtor's operations ceased. Despite the progress made over the past year, the liquidation continues to be an extremely arduous and time consuming assignment. The ability to progress on many of the environmental issues is outside of the control of the Committee

and has required the assistance of the federal and state environmental agencies. However, the Committee continues to proceed on the assumption that it remains possible to make a distribution in some amount and at some time to the general unsecured creditors in this case. This will not be a simple goal to achieve given the extent of the problems being faced, but it remains possible. Still, it is too uncertain to predict when or how much of a distribution can be made. Every effort is being made by the Committee's representatives to efficiently and effectively accomplish the many tasks attendant to the liquidation effort contemplated by the Liquidation Plan.

Respectfully submitted,

Post-Confirmation Committee of
R. Lavin & Sons, Inc.

By: Chad H. Gettleman
One of its Attorneys

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Special Environmental Counsel to the
Post-Confirmation Committee

Exhibit "D"

Debtors' Request for Withdrawal of Claim

TRANSMISSION REPORT

(WED) SEP 10 2003 15:49
12125935955 SCHULTE ROTH & ZABEL LLP

DOCUMENT #	TIME STORED	TIME SENT	DURATION	PAGE(S)	MODE	RESULT
4861207-407	9.10 15:46	9.10 15:46	2' 30"	9	ECM	OK

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0001#13124351059	9008#0214020001#13124351059

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PLEASE DISTRIBUTE TO ALL LISTED PERSONS

To	Company	Fax No.	Confirmation No.
Nathan Q. Rugg	Adelman, Gettleman, Merens, Berish & Carter, Ltd.	312-435-1059	312-435-1050

FROM: David Jensen	DATE: September 10, 2003
DIRECT DIAL: (212) 756-2455	Number of Pages:
Number of Cover Sheets:	(Including Cover Page)
FILE NO.: 021402-0001	

Additional Message: Nathan,

Pursuant to our conversation earlier today, attached is a copy of the June 17, 1997 letter from the USEPA issued to Fansteel Inc. as a named PRP with respect to the Vulcan Louisville Smelting Company Site in North Chicago, Illinois. Also attached is an excerpt from the administrative order dealing with the site which names only Fansteel Inc. in the caption. As previously indicated, without addressing the merits of the claim asserted by the Lavin Post Confirmation Committee against Fansteel Inc, the Fansteel Debtors believe that the Lavin claims are not properly asserted against Custom technologies Corp., Phoenix Aerospace Corp. or Fansteel Holdings, Inc. as none of these parties have been identified by the USEPA as PRPs with respect to the site and have never owned nor conducted any operations at the site. We, therefore, request that in accordance with the representations contained in the proofs of claim filed against these Debtors ("In the event that the Lavin Disbursing Agent subsequently discovers that one or more of the Fansteel/North Chicago Entities did not conduct business operations from the North Chicago site..., the Lavin Disbursing agent will withdraw any such proof of claim which is ultimately shown to be not applicable.") on behalf of the Lavin Post Confirmation Committee that the claims filed against Custom, Phoenix and Fansteel Holdings be withdrawn. We of course reserve all rights with respect to any objection that Fansteel may have with respect to the claim asserted against Fansteel Inc.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

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

**ORDER DISALLOWING AND EXPUNGING THE CLAIM OF R. LAVIN & SONS, INC.
AND THE POST CONFIRMATION COMMITTEE RELATING TO THE
SUPERFUND SITE IN NORTH CHICAGO, ILLINOIS**

Upon consideration of the objection and motion by Fansteel Inc. ("Fansteel"), a Delaware corporation, and its direct and indirect subsidiaries, as debtors and debtors in possession (collectively, the "Debtors") objecting to the proof of claim (the "Proof of Claim") of R.Lavin & Sons, Inc. ("Lavin") c/o the Post-Confirmation Committee authorized to liquidate the assets of Lavin bankruptcy estates (the "PCC") dated August 28, 2002 and filed against the Fansteel Inc., Fansteel Holdings, Inc., Custom Technologies Corp. and Phoenix Aerospace Corp. on September 5, 2002, and seeking entry of order disallowing and expunging the Proof of Claim; and notice of the Objection having been provided to (i) the United States Trustee; (ii) counsel to the Committee; (iii) counsel to PCC; (iv) counsel to the EPA; (v) counsel for the Department of Justice and (vi) all parties requesting notice pursuant to Bankruptcy Rule 2002; and it appearing that no other or further notice need be given; and after due deliberation and sufficient cause appearing therefore, it is hereby

ORDERED that the Objection 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., and American Sintered Technologies, Inc.

ORDERED that the Proof of Claim No. 639 of PCC asserted against Fansteel Inc., attached hereto as Exhibit "A", shall be disallowed and expunged; and it is further

ORDERED that the Proof of Claim of PCC No. 640 asserted against Fansteel Holdings, Inc., attached hereto as Exhibit "B", shall be disallowed and expunged; and it is further

ORDERED that the Proof of Claim of PCC No. 642 asserted against Phoenix Aerospace Corp., attached hereto as Exhibit "C", shall be disallowed and expunged; and it is further

ORDERED that the Proof of Claim of PCC No. 641 asserted against Custom Technologies Corp., attached hereto as Exhibit "D", shall be disallowed and expunged; 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: November __, 2003

Joseph J. Farnan, Jr.
United States Bankruptcy Judge

Exhibit "A"
Proof of Claim