

filed in open court on 11/17/03⁰³

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

_____)	
In Re:)	Jointly Administered
)	
Fansteel, Inc., et al.)	No. 02-10109 (JJF)
)	
Debtor)	Chapter 11
)	
_____)	

SETTLEMENT AGREEMENT

WHEREAS, on January 15, 2002 (the "Petition Date"), Fansteel Inc. and its affiliates (collectively the "Debtors") filed voluntary petitions with the United States Bankruptcy Court for the District of Delaware (the "Court") for relief under Title 11 of the United States Code (the "Bankruptcy Code") which are being jointly administered as Case No. 02-01109 (JJF) (the "Chapter 11 Cases");

WHEREAS, on September 21, 2002, the United States, on behalf of the Environmental Protection Agency ("EPA"), the Department of the Navy ("Navy"), the Department of the Interior ("DOI") and the National Oceanic and Atmospheric Administration ("NOAA"), filed a proof of claim (the "Proof of Claim") against Fansteel, Inc. (the "Debtor");

WHEREAS, the proof of claim asserts, inter alia, a claim, pursuant to the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9601 et seq., that the Debtor arranged for the treatment or disposal of hazardous substances that it owned or possessed at the Old Southington Superfund Site located in Southington, Connecticut; the PCB Treatment Inc. Superfund Site located in Kansas City, Kansas and Kansas City, Missouri; the Li Tungsten Superfund Site located in Glen Cove, New York; and the Operating Industries,

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Inc. Superfund Site located in Monterey Park, California; and that the Debtor is liable for unrecimbursed environmental response costs incurred by the United States and for response costs incurred in the future by the United States at the such Sites (the "EPA CERCLA Claim");

WHEREAS, the Proofs of Claim are asserted as general unsecured claims;

WHEREAS the Debtor disputes the allegations in the EPA CERCLA Claim; and

WHEREAS, the parties hereto, without admission of liability by any party, desire to settle, compromise and resolve the EPA CERCLA Claim;

NOW, THEREFORE, in consideration of the mutual promises contained herein, and for other good and valuable consideration receipt of which is hereby acknowledged;

IT IS HEREBY STIPULATED and agreed to by and between the parties hereto, subject to approval by the Bankruptcy Court as follows:

1. The EPA CERCLA Claim shall be deemed allowed as a Class FAN-6 Unsecured Claim in the following amounts: (1) \$200,000 for the Old Southington EPA CERCLA Claim; (2) \$332,000 for the PCB Treatment EPA CERCLA Claim; (3) \$125,000 for the Li Tungsten EPA CERCLA Claim; and (4) \$960,898 for the Operating Industries EPA CERCLA Claim.¹¹

2. The EPA CERCLA Claim shall be paid, without discrimination, in accordance with the terms of the Debtor's Plan of Reorganization, dated September 18, 2003, as follows:

¹¹Unless otherwise expressly provided herein, the terms used in this Settlement Agreement which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. In addition, unless otherwise expressly provided herein, terms used in this Settlement Agreement which are defined in the Plan shall have the meaning assigned to them in the Plan.

(a) The EPA shall receive a Pro Rata share of Available General Unsecured Cash as if the EPA held Allowed Class FAN-3 General Unsecured Claims of (i) \$100,000 for the Old Southington Claim; (ii) \$132,000 for the PCB Treatment Claim; (iii) \$25,000 for the Li Tungsten Claim; and (iv) \$460,898 for the Operating Industries Claim, and

(b) distributions of net insurance proceeds, if any, recovered by Reorganized Fansteel on account of the balance of such Class FAN-6 EPA CERCLA Claims, not to exceed \$900,000 in the aggregate, subject to the following maximum respective amounts: (i) \$100,000 for the Old Southington Claim; (ii) \$200,000 for the PCB Treatment Claim; (iii) \$100,000 for the Li Tungsten Claim; and (iv) \$500,000 for the Operating Industries Claim. The treatment of the EPA CERCLA Claim under Class FAN-6 is for purposes of administrative convenience only and shall not be construed to indicate that the United States is a potentially responsible party for any of the referenced Sites.

3. Payment on the EPA CERCLA Claim shall be made by Electronic Funds Transfer ("EFT" or wire transfer) to the U.S. Department of Justice lockbox bank, referencing CERCLA Number ___ and U.S.A.O. file no. ____, in accordance with instructions provided by the United States to the Debtor after execution of this Settlement Agreement. Any EFTs received at the U.S. D.O.J. lockbox bank after 11:00 A.M. (Eastern Time) will be credited on the next business day.

4. Only the amount of cash received by EPA (or net cash received by EPA on account of any non-cash distributions) from the Debtor under this Settlement Agreement for EPA's allowed Class FAN-6 Unsecured Claim, and not the total amount of the allowed claim, shall be credited by EPA to its account for the respective Sites, which credit shall reduce the

liability of non-settling potentially responsible parties to EPA for the respective Sites by the amount of the credit. Distributions received by EPA will either be deposited in site specific special accounts within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with those sites, or be deposited into the EPA Hazardous Substance Superfund.

5. In consideration of the payments or distributions that will be made by the Debtor under the terms of this Settlement Agreement, and except as provided in paragraph 6, the EPA covenants not to bring a civil action or take administrative action against the Debtor pursuant to Sections 106 and 107 of CERCLA and Section 7003 of the Resource Conservation and Recovery Act ("RCRA") relating to the Old Southington, PCB Treatment, Li Tungsten, and Operating Industries Sites. This covenant not to sue is conditioned upon the complete and satisfactory performance by the Debtor of its obligations under this Settlement Agreement. This covenant not to sue extends only to the Debtor and does not extend to any other person.

6. The covenant not to sue set forth in the previous paragraph does not pertain to any matters other than those expressly specified in the previous paragraph. The United States reserves, and this Settlement Agreement is without prejudice to, all rights against the Debtor with respect to: claims based on a failure by the Debtor to meet a requirement of this Settlement Agreement; and claims for any sites other than the above referenced Sites, except for the sites referenced in the North Chicago Consent Decree between the United States and the Debtor, which are covered under the terms of that Consent Decree.

7. With regard to claims for contribution against the Debtor for matters addressed in this Settlement Agreement, the Debtor is entitled to such protection from contribution actions or claims as is provided by CERCLA Section 113(f)(2), 42 U.S.C. § 9613(f)(2).

8. The Debtor covenants not to sue and agrees not to assert any claims or causes of action against the United States with respect to the above referenced Sites, including but not limited to: any direct or indirect claim for reimbursement from the Hazardous Substance Superfund, any claims for contribution against the United States, its departments, agencies or instrumentalities, and any claims arising out of response activities at the above Sites. Nothing in this Settlement Agreement shall be construed to constitute preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611 or 40 C.F.R. § 300.700(d).

9. Nothing in this Settlement Agreement shall be construed to create any rights in, or grant any cause of action to, any person not a party to this Settlement Agreement. This Settlement Agreement shall not in any manner limit, abridge or otherwise impair the scope and effect of the Debtors' discharge under Section 1141 of the Bankruptcy Code as set forth in the Plan as to any third parties or any Claims that are not addressed by this Settlement Agreement.

10. Debtor's entry into this Settlement Agreement will be subject to Bankruptcy Court approval pursuant to Bankruptcy Rule 9019. Debtor agrees to exercise its best efforts to obtain the approval of the Bankruptcy Court. This Settlement Agreement will be lodged with the Bankruptcy Court. The proposed settlement is contained in the Debtor's Plan, and has been submitted for public comment following notice of the proposed settlement in the Federal Register. The United States reserves the right to withdraw or withhold its consent if the public comments regarding the Settlement Agreement disclose facts or considerations which indicate that the Settlement Agreement is inappropriate, or improper, or inadequate.

11. If this Settlement Agreement is not authorized and approved by the Bankruptcy Court, this Settlement Agreement shall be of no force and effect, whereupon nothing

herein shall be deemed an admission of any fact or waiver of any right of either party with respect to the matters contained herein.

12. This Settlement Agreement represents the complete agreement of the parties hereto on the matters referred to herein and supersedes all prior agreements, understandings, promises and representations made by the parties hereto concerning the subject matter hereof. This Settlement Agreement may not be amended, modified or supplemented, in whole or in part, without the prior written consent of the parties hereto and the approval of the Bankruptcy Court.

FOR THE UNITED STATES OF AMERICA

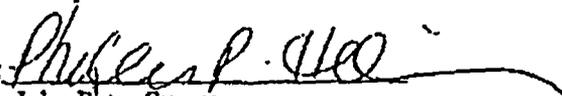
11/7/03
Date

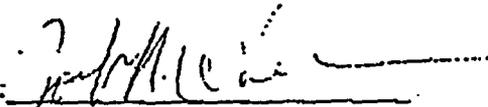
Acting
Kelly A Johnson
Assistant Attorney General
Environment and Natural Resources
Division
U.S. Department of Justice

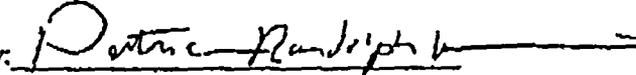
11/12/05
Date

Richard Gladstein
Richard Gladstein, Senior Counsel
Environmental Enforcement Section
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044

FOR THE ENVIRONMENTAL PROTECTION AGENCY

Date: 11/14/03 By: 
John Peter Suarez
Assistant Administrator for
Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460

Date: 11/13/03 By: 
John H. Wheeler
Senior Attorney
Office of Enforcement and
Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460

Date: 11/13/03 By: 
Patricia Randolph Williams
Attorney-Advisor
Office of Enforcement and
Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460

FROM FANSTEEL INC.

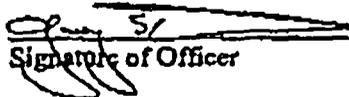
(FRI) 11 14 2003 11:12/ST. 11:12/NO. 5011267259 P 2

FOR FANSTEEL, INC.

Number One Tantalum Place, North Chicago, IL 60064
Address

(847) 689-4900
Telephone Number

By: Gary L. Tessitore
Name of Officer (please type or print)

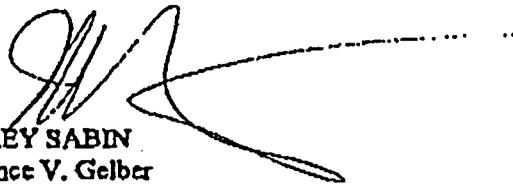

Signature of Officer

President and Chief Executive Officer
Title

DATED: 11/13/03

SCHULTE ROTH & ZABEL LLP

DATED: 11/17/03



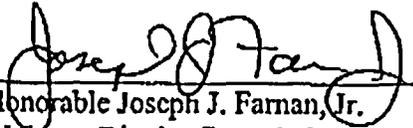
JEFFREY SABIN
Lawrence V. Gelber
919 Third Avenue
New York, New York 10022

and

Laura Davis Jones
Rosalie L. Spelman
PACHULSKI, STANG, ZIEHL, YOUNG
JONES, & WEINTRAUB, P.C.
919 Market Street, 16th Floor
P.O. Box 8705
Wilmington, Delaware 19899-8705

ATTORNEY FOR THE DEBTOR

So ordered this 17 day of November, 2003.


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

Tracy MacDonald

From: Laura Davis Jones
Sent: Thursday, November 20, 2003 1:30 PM
To: Tracy MacDonald
Cc: Rosalie Spelman
Subject: FW: 02-10109-JJF "Order"

louise -- paperflow; coordinate service with Rosalie

Laura Davis Jones, Esquire
Pachulski, Stang, Ziehl, Young, Jones & Weintraub P.C.
919 North Market Street, 16th Floor
Wilmington, DE 19801
Direct Dial Telephone: (302) 778-6401
General Office Telephone: (302) 652-4100
Office Facsimile: (302) 652-4400
EMail: LJones@PSZYJW.com

-----Original Message-----

From: DEBdb_ECF_Reply@deb.uscourts.gov [mailto:DEBdb_ECF_Reply@deb.uscourts.gov]
Sent: Thursday, November 20, 2003 6:12 AM
To: dummail@deb.uscourts.gov
Subject: 02-10109-JJF "Order"

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U.S. Bankruptcy Court

District of Delaware

Notice of Electronic Filing

The following transaction was received from JSJ, entered on 11/20/2003 at 6:12 AM EST and filed on 11/17/2003

Case Name: Fansteel Inc.
Case Number: 02-10109-JJF
Document Number: 1634

Docket Text:

Order Approving Settlement Agreement Between The Debtors & The Environmental Protection Agency Signed & Bench Filed on 11/17/2003. (JSJ,)

11/20/2003