

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

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

**STIPULATION AND ORDER AUTHORIZING DEBTORS TO REJECT  
CERTAIN LEASES WITH GENERAL ELECTRIC CAPITAL  
CORPORATION AND TO ABANDON CERTAIN EQUIPMENT**

Fansteel Inc. ("Fansteel" with its affiliated debtors and debtors-in-possession, the "Debtors") and General Electric Capital Corporation ("GE Capital"), by and through their respective counsel hereby stipulate as follows:

**RECITALS**

A. Pre-petition, on or about April 2, 2001, Fansteel entered into a Lease Agreement with Hyster Mid-East ("Hyster") whereby Fansteel, as lessee, agreed to lease certain forklifts from Hyster (the "Lease Agreement"). Pursuant to the Lease Agreement, Fansteel would execute and deliver to Hyster certain lease schedules for the lease of various forklifts (the "Lease Schedules") including, but not limited to, the Lease Schedules described herein.

B. Thereafter, between April 25, 2001 and December 18, 2001, in accordance with and subject to the Lease Agreement, Fansteel entered into five (5) Lease Schedules with Hyster whereby Fansteel agreed to lease certain forklifts (the "Forklifts"), as more particularly described in the Lease Schedules, from Hyster.

<sup>1</sup> 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.

BKLPOI  
Date 1-15-04  
Docket # 1927

C. Specifically, Fansteel executed and delivered to Hyster Schedule No. 4119168-005 whereby Fansteel agreed to lease one (1) Hyster S40XMS Forklift bearing serial number D010H01967Y and to make sixty (60) consecutive monthly installment payments of \$256.05 to Hyster or its assigns. (See Exhibit A)

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

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

F. Fansteel also executed and delivered to Hyster Schedule No. 4115276-001 whereby Fansteel agreed to lease one (1) Hyster Used 1991 Forklift bearing serial number D004VD4593H and to make thirty-six (36) consecutive monthly installments of \$639.20 to Hyster and its assigns. (See Exhibit D)

G. Fansteel also executed and delivered to Hyster Schedule No. 4119168-001 whereby Fansteel agreed to lease two (2) Hyster W40XT Forklifts bearing serial numbers A218H06224X and A218H06188X (the "001-Forklifts") and to make sixty (60) consecutive monthly installment payments of \$133.22 to Hyster or its assigns. (See Exhibit E)

H. Contemporaneously with Fansteel's execution of the Lease Schedules, Hyster assigned all of its rights, title, and interests in and to the Lease Agreement, Lease Schedules, and

Forklifts subject thereto to NMHG Financial Services, Inc., a wholly owned subsidiary of GE Capital.

I. On January 15, 2002 (the "Petition Date"), the Debtors filed Voluntary Petitions under Chapter 11 of the Bankruptcy Code and Orders for Relief were entered on that date.

J. On or about July 2, 2002, GE Capital filed a Motion to Compel the Debtors to Assume or Reject the Lease Agreement and the corresponding Lease Schedules, and for Post-Petition Lease Payments (the "Motion").

K. On or about September 4, 2002, in resolution of the Motion, GE Capital and the Debtors entered into a Stipulation and Order (the "2002 Stipulation and Order") [Docket No. 451] whereby the Debtors agreed to make certain post-petition payments to GE Capital on account of the Lease Schedules.

L. Pursuant to that Stipulation and Order, GE Capital and the Debtors also agreed that Lease Schedule No. 4119168-001 is a security agreement, that GE Capital has a properly perfected first priority lien in and to the equipment subject to that schedule, and that the Debtors would make monthly adequate protection payments of \$100.00 commencing in July 2002.

M. On September 13, 2002, GE Capital filed two claims (collectively, the "GE Capital Claims"): (1) Claim No. 709 asserting \$6,794.22 as a secured claim pursuant to Lease Schedule 4119168-001, and (1) Claim No. 711 asserting \$67,657.32 as an unsecured claim pursuant to Lease Schedules 4119168-002, 003, 005 and Lease Schedule 4115276-001.

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

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

1. The Debtors and GE Capital acknowledge that, prior to the date of this Stipulation, all of the Forklifts subject to the Lease Schedules 4119168-001, -002, -003 and -005 have been returned to GE Capital.

2. The Parties acknowledge that Fansteel, as of the date of this Stipulation, retains possession of the forklifts subject to Lease Schedule 4115276-001 and that Lease Schedule 4115276-001 remains in full force and effect as of the date hereof. Upon the Effective Date of the Amended Joint Plan of Reorganization of Fansteel and its subsidiaries ("Amended Plan"), Lease Schedule 4115276-001 will be assumed. Fansteel acknowledges that a cure amount of \$1,629.96 is due to GE Capital on Lease Schedule 4115276-001 [See Docket No.1531].

3. Upon entry of the Order approving this Stipulation, (a) Lease Schedule Nos. 4119168-002, -003 and -005 shall be deemed rejected by the Debtors and (b) the 001-Forklifts shall be deemed to have been abandoned to GE Capital.

4. GE Capital covenants that it has sold the 001-Forklifts in a commercially reasonable manner. The proceeds of such sale have been applied to the deficiency claim of GE Capital. Claim No. 709 filed by GE Capital shall be reclassified, reduced, and allowed as a Class FAN-3 general unsecured claim in the amount of \$2,210.00.

5. The Debtors and GE Capital agree that the rejection damages for Lease Schedules 4119168-002, 003 and 005, collectively, shall be \$41,560.45. Claim No. 711 filed by GE Capital shall be reclassified, reduced, and allowed as a Class FAN-3 general unsecured claim in the amount of \$41,560.45.

6. GE Capital hereby covenants not to file any other claims related to the Lease Schedules 4119168-001, -002, -003 and 005, including, but not limited to any requests for payment of an administrative expense.

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

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

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

Dated: 12/5, 2003

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

By: 

Rosalie L. Spelman (Bar No. 4153)  
919 North Market Street, 16<sup>th</sup> Floor  
P.O. Box 8705  
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Dated: 12/5, 2003

MONZACK AND MONACO, P.A.

By: 

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

So Ordered this 15 day of January, <sup>2004</sup>~~2003~~

  
UNITED STATES DISTRICT JUDGE

**Maria Kenion**

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**From:** Laura Davis Jones  
**Sent:** Thursday, January 15, 2004 11:52 PM  
**To:** Diane Potts  
**Cc:** James O'Neill  
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**U.S. Bankruptcy Court**

**District of Delaware**

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**Case Name:** Fansteel Inc.  
**Case Number:** 02-10109-JJF  
**Document Number:** 1927

**Docket Text:**

Order Approving Stipulation Authorizing Debtors to Reject Certain Leases with General Electric Capital Corporation and to Abandon Certain Equipment (Related Doc # [1733]) -Order Signed on 1/15/2004. (MDE, )

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

**Document description:**Main Document

1/16/2004