

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
SOUTHERN DIVISION

FILED
U.S. BANKRUPTCY COURT
2006 OCT -4 A 9 58

IN RE:

Case No. 2:06-BK-20586

UNION STAMPING & ASSEMBLY, INC.,

Involuntary Chapter 11

Debtor.

Hon. Ronald G. Pearson

SOUTHERN DISTRICT
WEST VIRGINIA

**EMERGENCY MOTION TO COMPEL DEBTOR TO
COMPLY WITH THE ORDER AUTHORIZING EMERGENCY USE
OF CASH COLLATERAL AND PROVIDING ADEQUATE PROTECTION**

General Motors Corporation ("GM"), by its attorneys, Honigman Miller Schwartz and Cohn LLP, requests that the court enter an order compelling the Debtor to comply with this Court's Order Authorizing Emergency Use of Cash Collateral and Providing Adequate Protection (the "Cash Collateral Order") entered by this Court on September 25, 2006 and allowing GM to take possession of its tooling, the Dedicated Equipment that has been purchased by GM (the "Purchased Dedicated Equipment"), and its inventory bank of parts. In support hercof, GM states:

INTRODUCTION

Pursuant to the terms of the Cash Collateral Order, this Court ordered the Debtor to release to GM its tooling, the Purchased Dedicated Equipment (as defined in the Cash Collateral Order), and the inventory bank of parts. Notwithstanding the express terms of the Cash Collateral Order, the Debtor has refused to release the Purchased Dedicated Equipment causing a disruption to GM's carefully choreographed transition of production from the Debtor's manufacturing facility. On Tuesday morning, October 3, 2006, the Debtor's counsel advised that the Debtor intended to convert the pending case to a voluntary Chapter 11 and that the Debtor

would release the Purchased Dedicated Equipment upon the entry of an order of this Court reaffirming the Cash Collateral Order. The Consent Order for Relief Pursuant to 11 U.S.C. § 303 and Approving the Withdrawal of Union Stamping & Assembly, Inc.'s Motion to Dismiss Involuntary Chapter 11 was entered at 2:30 p.m. on October 3, 2006. Notwithstanding the entry of the above Order, the Debtor has not released the Purchased Dedicated Equipment.

GM has facilitated the critical funding provided under the Cash Collateral Order conditioned upon the Order clearly setting forth GM's rights to immediately remove the Purchased Dedicated Equipment, tooling and inventory bank. Continued failure to comply with the terms of the Cash Collateral Order will cause irreparable damage to GM without any cognizable benefit to Debtor. Accordingly, GM requests that the Court enter an order requiring the Debtor to comply with the Cash Collateral Order and immediately release the Purchased Dedicated Equipment.

BACKGROUND

This Court approved the following provision of the Cash Collateral Order:

Upon remitting the applicable Equipment Cash Collateral, each Major Customer shall have the immediate right to remove their respective Dedicated Equipment. In addition, (i) each Major Customer shall have the immediate right to remove any tooling, fixtures, gauges and related items that Union has previously acknowledged are owned by the Major Customer, and (ii) subject to entry of this Order, Union shall ship parts banks as requested by the Major Customers.

Order Authorizing Emergency Use of Cash Collateral and Providing Adequate Protection, ¶ 13

(emphasis added).

In reliance on Paragraph 13 of the Cash Collateral Order, through GMAC/CF, facilitated the Debtor in obtaining funding for critical expenses. It was GM's understanding that the Debtor would proceed to effectuate the resourcing of production of GM's component parts, by removing

GM owned tooling from the Debtor's machinery and equipment and dismantling certain machinery and equipment in preparation for shipment to GM's successor supplier. GM has arranged for a steady flow of trucks to arrive at Debtor's manufacturing facility to remove these items and has successor suppliers standing by to begin assembling the equipment in order to begin producing parts for GM. The timing of this transition is critical because GM must rely on its limited inventory bank to satisfy its current production releases during the period that Debtor is not operating.

At the eleventh hour, without any plausible excuse, the Debtor has now disrupted GM's resourcing plan by refusing to release the Purchased Dedicated Equipment, despite having acknowledged that GM or its successor supplier have paid for such items and that the Cash Collateral Order affords GM the immediate right to take possession.

At approximately 3:30 p.m. on Tuesday, October 3, 2006, Debtor's counsel informed counsel for GM that the Court has entered an order continuing the effect of the Cash Collateral Order. Counsel for GM has asked for written confirmation from counsel for the Debtor that in view of the above order, the Debtor would immediately release the Purchased Dedicated Equipment. As of the time of filing this Motion, such confirmation has not been received, and based upon information and belief, the Debtor has refused to release the Purchased Dedicated Equipment.

LEGAL STANDARD

It is axiomatic that a court possesses the inherent authority to enforce its own orders. *In re Protarga*, 329 B.R. 451, 479 (Bankr. D. Del. 2005) (citations omitted). Further, 11 U.S.C. § 105(a) provides that a bankruptcy court is authorized to issue any order, process or judgment necessary to carry out the provisions of the Bankruptcy Code. Pursuant to section 105(a) a

bankruptcy court has the power and the jurisdiction to enforce its valid orders, and like a court of equity, the power to amend, modify, or vacate its earlier orders.¹

RELIEF REQUESTED

GM requests that the Court enter an order compelling the Debtor to comply with its obligations under the Cash Collateral Order as follows:

1. Immediately releasing to GM all Purchased Dedicated Equipment, including, but not limited to, the machinery and equipment described on the list attached as Exhibit A;
2. Releasing upon GM's request any tooling, fixtures, gauges, and related items that the Debtor has previously acknowledged to be owned by GM;
3. Shipping all inventory bank parts as produced to a location directed by GM; and
4. Awarding to GM its legal fees and expenses incurred on account of Debtor's deliberate disregard of the Cash Collateral Order.

Respectfully submitted,

HONIGMAN MILLER SCHWARTZ AND COHN LLP

By: 

Robert B. Weiss (P28249)

2290 First National Building

660 Woodward Avenue

Detroit, MI 48226-3506

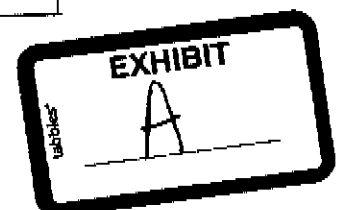
(313) 465-7640

Dated: October 4, 2006

DETROIT 2330511.3

¹ *In re Radco Merch. Serv., Inc.*, 111 B.R. 684, 689 (Bankr. N.D. Ill. 1990); See also *In re Marcus Hook Dev. Park*, 943 F.2d 261, 265-266 (3d Cir. 1991) (same) citing *Radco*; *Protarga*, 329 B.R. at 479 (same) citing *Radco* and *Marcus Hook*; *Precision Indus. v. Qualitech Steel (In re Qualitech Steel)*, No. IP00-0247-C-H/G, 2001 WL 699881, at *6 (S.D. Ind. Apr. 24, 2001) (same), *rev'd on other grounds* 327 F.3d 537 (7th Cir. 2003).

Program	ASM Part #	Description
GMX-381	IT 15839982	ABB IRB 6400 robot with control, cables, motor controls, with anuc ArcMate 100iB robot with RJ3iB, 4200 hours, Lincoln Powerwave F355i power source with tables and fixtures
GMX-211	10337185, 10337186	ABB IRB 6400 robot with control, cables, motor controls, M97, 2.8/120 with Banner 75 KVA spot welder and nut feeder
GMX-211	10372515, 10372516	(2) Banner 75 KVA spot welders with nut feeders
GMX-211	15824898, 15824899	GWI engineering fixture with Emhart stud welder
GMX-211	10337227, 10337228	Nut welder with Automatic nut feeder
GMX-322	15251407, 15251408	ABB IRB 6400 robot with control, cables, motor controls, M97, 2.4/150, 1998, 2181 hours, dual station, Medweld 300S AC welding control with Banner 75 KVA spot welder
GMX-322	15265553, 15265554	(4) ABB IRB 6400 M97A, 2.4/150 robots with control, cables motor controls, with AB Panelview 900, (3) Banner 75 KVA spot welders, cages, tables fixtures
GMX-322	15248652, 15248653	(6) ABB IRB 6400
GMX-322	15263567	(3) ABB IRB 6400 robots with control, cables, motor controls, AB Panelview 900, Banner 75 KVA spot welder with Nut feeder (some parts not located at plant)
GMX-901/2	15793537, 15793538	(1) ABB IRB 6400 with nut feeder
GMX-901/2	15793539, 15793940	(2) ABB IRB 6400
GM Other	152012971P	Automatic Lift gate assembly cell includes (14) ABB IRB6400 M98, 1999, 2.4/150 robots with controls, motor controls, cables, and (3) Ingersoll Rand air compressors, receiving tanks, mezzanine, welding power sources, Medweld controls
GM Other	15201298, 15201299	Koolant water chiller, (2) cnpers, automatic cell (specialized cell)
GM Other	22723706, 22723707	(2) Banner 75 KVA spot welders and ABB IRB 6400 M97A 2.4/150, 1998 robot with controls, Panelview 900 control
GMX-381	22724944, 22724945	Banner 75 KVA spot welder
GMX-381	22724962, 22724963	Banner 75 KVA spot welder
GMX-381	21997812, 21997813	Not Located at Plant (Did not see or Value)
GMX-381	22724973, 15916902, 15916903	ABB IRB6400, 2.4/150 robot with control, motor controls and cables, with Banner 75 KVA spot welder
GMX-381	15821044, 15821043, 15821040, 15821039, 15821037, 15821038, 15821041, 15821042	Foam Machine includes, Motivair chiller Mod MPCA0200, Gusmer rim cell RX series foam machine, turntable
GMX-381	15789135	(2) Fanuc Arcmate 100iB with RJ3iB control, welding turntable, Panelview 900 control, fixtures, etc
GMX-381	15863787, 15863788	Banner 75 KVA spot welder and Technotron Series T2050 spot welder
GMX-381	22721160, 22721161	Banner 75 KVA spot welder



Program	ASM Part #	Description
GMX-381	22700300, 22700301, 22700304, 22700305	ABB IRB 6400 M97A 2.4/150, 1998 robot with control, motor controls, cables and Fanuc Arcmate 100iB robot with RJ3ib control, table and fixtures, Banner 75 KVA spot welder
GMX-381	15895451, 15895452, 22721202	Two station peg welder, did not see asset associated with 22721202
GMX-381	22724600	ABB IRB6400 robot, M97A, 2.4/150, 1998 with control, motor controls, cables and GVI 4 station welding system
GM Other	15131198, 15131199	ABB IRB6400 M98 2.4/150, 1999 robot, 3000 hours with fixtures and tables
GM Other	15095576	GVI Engineering 2 stage nutweld machine with 2 tables and AB touch screen
GM Other	15113805	Three stage peg welder
GM Other	15875391, 15875392	(3) ABB IRB 6600 robots, M2000, teach pendant, 2004 robots with tables, cage, conveyors, AB Panelview 550
GM Other	15732160	(2) Hy-Tek system three station welding stations (other associated equipment indicated per plant that was not included as part of the equipment)
GM Other	15117138, 15117149	ABB IRB6400, M94A robot with control, motor controls, cables, and (2) Banner spot welders
GM Other	4710, 4712	ABB IRB6400 robot, M96, 2.8/120 with control, motor controls, cables and ABB IRB440, M94, M4 control, 1.95/45, 4400 hours, with Hemm machine