

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re:)	Chapter 11
)	
GETRAG TRANSMISSION MANUFACTURING, LLC)	Case No. 08-68112
)	
Debtor.)	Judge Marci B. McIvor
)	

**ORDER AUTHORIZING
PROCEDURES FOR RESOLUTION OF LIEN CLAIMS AGAINST
TIPTON MANUFACTURING FACILITY PROJECT**

This matter having come before the Court upon the *Motion for Order Authorizing Procedures for Resolution of Lien Claim Against Tipton Manufacturing Facility Project* (the "Motion") filed by the above-captioned debtor and debtor in possession (the "Debtor"); notice of the Motion having been duly given and deemed proper under the circumstances; timely objections to the Motion having been filed by Industrial Power Systems, Inc., Chrysler, LLC, General Interiors, Inc. with a joinder in the objection filed by Moorehead Electric Co., Reith-Riley Construction Co., Inc.; allegedly untimely objections having been filed by Siemens Building Technologies, Inc. and Siemens Water Technologies Corp.; and with objections also raised to the Motion (but not filed) by Industrial Maintenance Specialists, Inc.; the Court having conducted a hearing on the Motion at which time the Court heard argument on the relief requested in the Motion and the objections; the Court having reviewed the record and the evidence offered; and it appearing that the relief requested in the Motion is in the best interest of the Debtor's estate, its

creditors and other parties in interest; and the Court finding good cause to grant the relief granted in the Motion:

THE COURT HEREBY finds that:

- A. There is a likelihood Debtor will be able to confirm a plan in its Chapter 11 case.
- B. Debtor would suffer irreparable injury if this order is not entered.
- C. The entry of this Order will not harm the creditors of the Debtor.
- D. Entry of this Order will promote success in the Chapter 11 case and recovery to creditors.
- E. The purpose of this Order is to streamline the procedures for determining the amount and validity of (i) claims against the Debtor, Walbridge Aldinger Company (“Walbridge”), a subcontractor or contractor for work done on or related to the transmission plant in Tipton, Indiana (the “Project”), and (ii) liens on or interests in the Project which secure such claims (respectively a “Project Claim” or “Project Lien”).

IT IS ORDERED that:

- 1. The Motion is granted. The objections to the Motion are either resolved by this Order or overruled.
- 2. Any party claiming to be owed money by the Debtor, Walbridge, a contractor or subcontractor for work or materials on the Project, or which asserts a lien on or interest in the Project to secure such claim, is a “Project Party.” Any action by a Project Party to obtain payment from the Debtor, Walbridge, another Project Party (but not a surety furnishing a bond on behalf of such parties), or from the Project itself (but not from Chrysler or from any other entity which is not a Project Party) for work or materials on the Project is a “Payment Action”.

3. On November 12, 2008, A.B. Young Companies (“A.B. Young”) filed a three count Complaint for Damages and Foreclosure of Mechanic’s Lien (the “Complaint”) against Industrial Power Systems, Inc. (“IPS”), Debtor and seven others in Tipton Circuit Superior Court (the “A.B. Young Action”). In the A.B. Young Action, A.B. Young seeks Complaint on Account Stated against IPS, unjust enrichment against the Debtor and Foreclosure of Lien against all defendants. A.B. Young did not name all of the parties filing lien claims against the Project as defendants in the A.B. Young Action. The A.B. Young Action was removed to the Southern District of Indiana and transferred to this Court, where it is Adv. Pro. No. 09-04164. The A.B. Young Action is hereby stayed.

4. Notwithstanding the Stay (defined below), any party to a foreclosure action or Payment Action may seek to remove the action to federal court and seek transfer of the action to this Court, subject to the right, if any, of any party in interest to object to any such removal and to seek remand or abstention under applicable law or rules.

5. Any Project Party wanting to assert a Project Claim and/or Project Lien against the Debtor, Walbridge, another Project Party (but not a surety furnishing a bond on behalf of such parties) in connection with the Project, or against the Project itself (but not against Chrysler or any other entity which is not a Project Party), for payment relating to the Project must serve a demand (a “Project Demand”) on Debtor, Walbridge, and the Committee at the addresses provided below no later than March 23, 2009. The Project Demand must include the following information:

- (a) the name of the claimant; and
- (b) for each contract under which the claimant worked. the following:
 - (i) identification of the contract;
 - (ii) the specific work covered by the contract;
 - (iii) the labor and/or materials supplied under the contract;

- (iv) the first day the claimant supplied labor and/or materials to the project;
- (v) the last day the claimant supplied labor and/or materials to the project;
- (vi) the contract value, as amended to date;
- (vii) amounts paid to date;
- (viii) amounts invoiced but unpaid;
- (ix) amounts not invoiced, but claimed due;
- (x) total amount claimed;
- (xi) if a Project Lien is claimed, a copy of a recorded lien, including a description of the alleged collateral and the filing date, recordation jurisdiction and recording number for any such lien

For clarity, however, a Project Demand is not a proof of claim. To preserve any rights it may have, each creditor should file a proof of claim in addition to submitting its Project Demand by the Proof of Claim deadline of March 23, 2009, as established by the U.S. Bankruptcy Court in this case. Service of a Project Demand should be to the following addresses, and a Certificate of Service of the Project Demand filed with the Court:

To Debtor: Jeffrey S. Grasl
McDonald Hopkins
39533 Woodward Avenue
Suite 318
Bloomfield Hills, MI 48304
(248) 646-5070
email: jgrasl@mcdonaldhopkins.com

To Walbridge: Judy B. Calton
Honigman Miller Schwartz and Cohn LLP
2290 First National Building
660 Woodward Ave.
Detroit, MI 48226
(313) 465-7344
email: jcalton@honigman.com

To Committee: Matthew Wilkins

Butzel Long, P.C.
150 W. Jefferson
Suite 100
Detroit, MI 48226
(313) 225-7000
Email: wilkins@butzel.com

6. The plaintiff in any Payment Action shall give notice of the Payment Action to Getrag, Walbridge, and the Committee within the later of five days (5) of the commencement of such action or service of this Order.

7. On or before May 7, 2009, forty-five (45) days after the deadline for filing and serving a Project Demand, Walbridge shall serve a notice (the "Notice") on each party serving a Project Demand or filing a lien on the Project, to the Debtor, the Committee and all parties on the Special Service List established pursuant to L.B.R. 2002-1 (E.D.M.) in this case (the "Notice Parties"). The Notice shall list each of the Project Demand claims, and the amounts, if any, which Walbridge deems to be valid. The Notice shall also state the defenses that Walbridge chooses to reserve, if any, to the Project Demand or lien.

8. Any party who wishes to object to the information set forth in the Notice must file and serve on the Notice Parties, by no later than May 27, 2009 (the "Objection Deadline"), an objection (the "Notice Objection") including a statement describing with specificity why the Notice is incorrect, together with any legal basis for the Notice Objection.

9. Any Project Demand that is included in the Notice, and for which a Notice Objection is not filed by the Objection Deadline, shall be deemed final as to its validity and allowed by the Court in the amount set forth in the Notice and for all purposes by and among the Project Parties and the Debtor and treated as a lien on the Project without further order of the Court or filing.

10. By June 24, 2009, Walbridge shall file with the Bankruptcy Court and serve on the Notice Parties a report (the "Interim Report") summarizing the Project Demands which were resolved and those Project Demands which were unresolved as of May 27, 2009. Walbridge shall file a copy of the Interim Report with the Clerk of the Circuit Court for Tipton County, Indiana or with the Office of the Recorder of Tipton County, Indiana, as an exhibit to an Amended Notice of Lis Pendens.

11. Walbridge, the Debtor and the Committee are hereby authorized to negotiate with all parties who file a Notice Objection. In the event Walbridge, the Debtor or the Committee resolves a Notice Objection, Walbridge, the Debtor or the Committee, as applicable, shall prepare a notice of settlement with a proposed order (a "Settlement Order") approving the settlement (a "Settlement Notice"), and file the Settlement Notice and serve it on the Notice Parties. If no objection is filed to the Settlement Notice within twenty (20) days of service, a certificate of no objection may be filed for entry of the proposed Settlement Order. The entered Settlement Order shall be final as to its determination of the validity and amount of the Project Demand and Project Lien for all purposes by and among the Project Parties and Debtor, with the Project Lien treated as a lien on the Project without further order of the Court or filing.

12. If there is no resolution to a Notice Objection within forty-five (45) days of its service (or a later date if the parties agree), Debtor, Walbridge, the Committee or the party to the Notice Objection shall file a motion with the Court seeking determination of the Notice Objection at a non-evidentiary preliminary hearing to be set by the Court. If the Notice Objection cannot be resolved at the non-evidentiary preliminary hearing, the Court shall set a schedule for any discovery and an evidentiary final hearing on the Notice Objection.

13. Subject to Paragraph 5 above, each Project Party shall be prohibited from (i) filing or continuing a motion for relief from the stay to determine the amount or validity of its Project Claim and/or Project Lien, (ii) from commencing or continuing a Payment Action against any party, including without limitation, the Debtor, Walbridge or another Project Party, and (iii) filing or continuing a foreclosure action (the “Stay”) until the earlier of when the Project has been sold, so the amount of any deficiency has been determined, or December 31, 2009 (the “Stay Period”). The statute of limitations provided under state law for the commencement of any lien foreclosure action shall be tolled through the end of the Stay Period, plus an additional 21 days. Notwithstanding the foregoing, if all defending parties to a Payment Action and the Debtor consent, a Payment Action may be excepted from the Stay or Stay Period. Additionally, if the Stay has been determined by a Court to be ineffective, inapplicable, void or invalid with respect to a particular Project Party that has commenced or seeks to commence a Payment Action against Industrial Power Systems (“IPS”), then, notwithstanding the Stay, IPS may assert third-party complaints against Walbridge and join Walbridge as a third-party defendant in such Payment Action, but Walbridge shall have reserved to it all of its rights, objections and defenses to such third-party complaint other than application and enforcement of the Stay.

14. If, by the end of the Stay Period, the parties or the Court have not resolved all foreclosure actions, Payment Actions and/or Project Demands, the Stay shall be modified to permit any unresolved foreclosure actions, Payment Actions and Project Demands to be determined by the Court in which such action or demand is pending. However, the Debtor, Walbridge, the Committee or any other Project Party may file a motion with the Court seeking an extension of the Stay Period for good cause shown and any party-in-interest may oppose such extension of the Stay Period.

15. Except to the extent a Project Demand or Project Lien is determined by the Court, nothing in the foregoing procedures is intended to or shall be construed as:

- (a) an admission as to the validity of any Project Claim, Project Lien or Project Demand;
- (b) a waiver of Walbridge's, Debtor's or the Committee's rights to dispute a Project Claim, Project Lien, or a Project Demand on any grounds, regardless of the inclusion of the Project Demand on the Notice;
- (c) a promise or requirement to pay any Project Claim, Project Lien or Project Demand;
- (d) affecting any party's rights or claims against Walbridge or any other contractors or subcontractors; or
- (e) an extension of time to file a lien.

16. Walbridge shall retain any claim it may have against Chrysler, LLC. Nothing in this Order shall constitute a finding that Walbridge has such a claim, has standing to assert it, or whether the claim is subject to the stay, but nothing in this Order shall preclude Walbridge from asserting such claim, nor the Debtor or Chrysler from objecting to such a claim.

17. Chrysler and the Debtor reserve all rights, objections and defenses with respect to (i) this Court's jurisdiction over the litigation involving Chrysler and the Debtor in the U.S. District Court for the Eastern District of Michigan, Case No. 08-14592, or the Adversary Proceeding pending before this Court between Chrysler and the Debtor, being Case No. 08-05608 (collectively, the "Litigation") and (ii) whether any resolution of a foreclosure action, Payment Action or Project Demand pursuant to this Order is binding on Chrysler with respect to any claim made against Chrysler by Debtor or others or with respect to any defense Chrysler may assert in the Litigation.

18. This Order shall be filed by Walbridge with the Clerk of the Circuit Court for Tipton County, Indiana or with the Office of the Recorder of Tipton County, Indiana as an

exhibit to a Notice of Lis Pendens giving notice that all actions related to the foreclosure of any lien, by way of filing or continuing a foreclosure action, are stayed pending further order of the Bankruptcy Court in accordance with the provisions of this Order.

19. Within 20 days after the Stay Period terminates, Walbridge shall file with the Bankruptcy Court and serve on the Notice Parties a supplemental report (the “Supplemental Report”) updating the Interim Report as to the Project Demands which were resolved and determined through the termination of the Stay Period, including the amounts so determined, and the Project Demands which remained unresolved through the termination of the Stay Period. Walbridge shall file a copy of the Supplemental Report with the Clerk of the Circuit Court for Tipton County, Indiana or with the Office of the Recorder of Tipton County, Indiana, as an exhibit to an Amended Notice of Lis Pendens.

20. If Walbridge fails to file either the Interim Report or Supplemental Report timely, any party-in-interest may serve Walbridge with a notice of failure to file. If Walbridge does not file the Interim Report or Supplemental Report within 20 days of such notice, a party in interest may file a motion to compel the filing and, if successful, shall be entitled to an award from Walbridge of its attorneys’ fees in connection with the filing of such motion.

Signed on February 10, 2009

**_____/s/ Marci B. McIvor_____
Marci B. McIvor
II. United States Bankruptcy Judge**