

MRD 10-18-00

11-02-2000



Date: October 16, 2000
Attorney Docket No.: 9178-1

To the Honorable Commissioner of Patents a
Please record the attached original document:

1. Name of conveying party(ies):

101503460

Name of receiving party(ies):

Doninger Metal Products Corp.

Ran-Paige Company, Inc.
840 Penn Street
Sellersburg, Indiana 47172

Additional name(s) of conveying party(ies) attached? Yes No

3. Nature of conveyance:

- Assignment
- Merger
- Security Agreement
- Change of Name
- Other: Order Confirming Plan

Execution Date: March 1, 1996

Additional name(s) & address(es) attached? Yes No

4. United States Patent No. 5,284,218 to Rusher, Jr.

If this document is being filed together with a new application, the execution date of the application is:

Additional numbers attached? Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:

J. Michael Strickland
Myers Bigel Sibley & Sajovec
P. O. Box 37428
Raleigh NC 27627

6. Total number of applications and patents involved: 1

7. Total fee (37 CFR 3.41) \$40.00
 Enclosed
 Authorized to be charged to deposit account

8. Deposit account number: 50-0220

DO NOT USE THIS SPACE

9. Statement and signature

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

J. Michael Strickland Reg. 47,115

Name of Person Signing

Signature

10/16/00

Date

Total number of pages including cover sheet, attachments and document: 9

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IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION

FILED

MAR 1 1996

PEGGY B. DEANS, CLERK
U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF N. C.

IN RE:

CHAPTER 11

DONINGER METAL PRODUCTS CORP.,

CASE NO. 95-00743-5-ATS

ADDRESS: Jeffrey Way
Youngsville, NC 27596

TAX ID NO.: 11-1892443

ORDER CONFIRMING PLAN

The Plan of Reorganization under Chapter 11 of the Bankruptcy Code filed by Doninger Metal Products Corp. on November 30, 1995 (hereinafter the "Plan"), having been transmitted to creditors and equity security holders of the above-referenced Debtor (hereinafter the "Debtor"); sufficient and proper notice having been given; and the Plan having come before the Court for hearing on confirmation on February 1, 1996; and it appearing to the Court and the Court finding that:

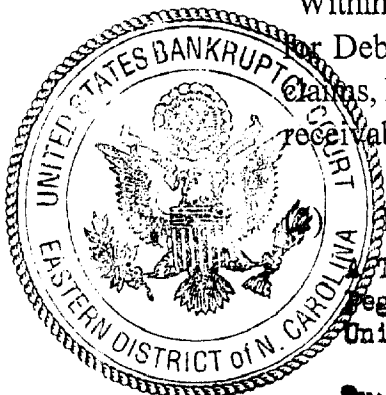
A. It having been determined after hearing on notice that the Amended Disclosure Statement filed by the Debtor contains adequate information as required by 11 U.S.C. § 1125 and the same having been conditionally approved pursuant to an Order of this Court dated December 1, 1996.

B. Prior to the Confirmation Hearing, Debtor filed on January 31, 1996 a "Modification to Plan Prior to Confirmation". At the Confirmation Hearing, in open Court, Debtor orally modified its Plan of Reorganization as follows:

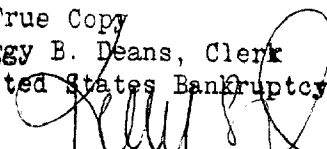
(1) Paragraph 1.6(a) is amended by (I) deleting the last sentence of that paragraph, beginning "(For the purposes of)" in its entirety; and (ii) adding in place of said last sentence, the following:

"Within five days of collection of funds sufficient to (I) fund a \$50,000 amount for Debtor Plan implementation purposes, and (ii) satisfy all Class 1,2, and 3 claims, Debtor shall pay over to Ran-Paige Company, Inc. any collected accounts receivables in excess of the Aggregate Limitation."

Paragraph 1.6(b)(vi) is amended by adding "547," after "545,";



True Copy
Peggy B. Deans, Clerk
United States Bankruptcy Court

By: 
Deputy Clerk

(8)

PATENT
REEL: 011190 FRAME: 0347

(3) Paragraph 1.6(c)(v) is amended by deleting subsection “(v)” in its entirety, and by substituting in its place:

“(v) Debtor’s royalty obligations under paragraphs 3 and 4 of that Asset Purchase Agreement (the “Asset Purchase Agreement”) dated July 11, 1994 by and among Doninger Metal Products, Rusher Corporation, and James T. Rusher, Jr. (“Rusher”), as those paragraphs are amended by a written March 9, 1995 Amendment entered into by those parties, except that: (a) Pre-petition royalties owed by Debtor shall be paid by Ran-Paige to Rusher in the stipulated amount of \$3,593.86; (b) all other sums owed by Debtor arising from unpaid obligations under the Asset Purchase Agreement, other than the assumed royalty obligations, shall be treated as a Class 10 Unsecured Claim; and (c) the conditional Motorized Cart License Agreement dated July 11, 1994 between Debtor and Rusher, shall be assumed by Ran-Paige in conjunction with the assumed royalty obligations except that paragraph 4.1 thereof is deleted in its entirety.”

(4) Paragraph 1.6(c) is amended by the addition at the end of subparagraph (c) of the following sentence: “The Ran-Paige Company, Inc.’s assumptions by assignment provided for in this sub-paragraph (c) shall be pursuant to and in the nature of an assignment authorized by 11 U.S.C. Section 365(f), with the consequent relief from liability of the Debtor and its estate after assignment as provided in 11 U.S.C. Section 365(k). Additionally, Ran-Paige Company, Inc. has executed an Indemnity Agreement which indemnifies Michael and Susan Doninger from all any and all personal liabilities, including guaranties and pledges of real or personal property owned by said individuals, formerly executed on behalf of the Debtor, on the United Leasing Corporation leases regarding the Powder Coating System and Powder Coating Booth which Ran-Paige Company, Inc. has assumed by assignment under the terms of the Confirmed Plan. As a condition of the Asset Purchase Closing, Ran-Paige Company, Inc. acknowledges, and agrees to be bound by, the terms of its obligations to Michael and Susan Doninger set out in said Indemnity Agreement dated March 1, 1996. ”

(5) Paragraph 1.6 is amended by adding a new subparagraph (i) as follows:

“(i) The Debtor shall take all steps reasonably necessary to assist Ran-Paige Company, Inc. (“Ran-Paige”) in obtaining Novation Agreements with the United States of America or any of its agencies in order to transfer existing contracts between the Debtor and the government to Ran-Paige, excepting, however, Debtor’s lockbox contract with the United States Postal Service, Contract No. 05990-92-B-0804 (the “Lockbox Contract”). As to the Lockbox Contract, Ran-Paige agrees to complete in a timely and proper manner Debtor’s obligations under said Contract at its own expense without charge to the Debtor, with all

accounts receivable existing on the date of Closing or arising subsequently thereunder being treated in the manner provided in Paragraph 1.6 and 1.31 of the Modified Plan. In the event that the Debtor receives payment on account of any novated government contract for work performed by Ran-Paige after consummation of the Debtor's Closing with Ran-Paige and prior to final execution of any applicable Novation Agreements, the Debtor shall turn over such payments to Ran-Paige. All other government accounts receivable shall be handled in the manner provided in Paragraphs 1.6 and 1.31 of the Modified Plan. Debtor shall comply with the requirements set out in Paragraph 1.6(a) (ix), as amended, regarding payover of account receivable collections to Ran-Paige Company, Inc. ”

(6) Paragraph 1.6 is amended by adding a new subparagraph (j) as follows:

“(j) As a condition of closing the Asset Purchase, Ran-Paige Company, Inc. shall pay at Closing, or at such time as otherwise designated below, in addition to all other payments provided by the Modified Plan, the following amounts: (a) an amount equal to the total projected payment of all Class 1, 2, and 3 claims less the amount of all valid, collectible government contract accounts receivable owed to Debtor on the Closing Date; and (b) on or before March 7, 1996, pay to Debtor an amount equal to Debtor's remaining gross outstanding payroll, including all applicable taxes, for the period February 26, 1996 through February 29, 1996.”

(7) Paragraph 1.6 is amended by adding a new subparagraph (k) as follows:

“(k) Ran-Paige Company, Inc. shall assume automatically at Closing: (I) without the necessity of any further documentation, the 1996 ad valorem tax liabilities of the Debtor to the Franklin County Tax Collector and shall indemnify and hold harmless the Debtor, Debtor-in-possession, and its estate from all costs and expenses relating to said assumed 1996 ad valorem taxes, also without the necessity of any further documentation; and (ii) without the necessity of any further documentation, the obligation of the Debtor, Debtor-in-possession, or its estate, to pay Michael D. Doninger Post-petition final compensation in such amount as the Interim Allowance set out in the Court's August 30, 1996 Order may be increased by subsequent Order, and to indemnify and hold those parties harmless from the same, also without the necessity of further documentation.”

(8) Paragraph 1.6 is amended by adding a new subparagraph (l) as follows:

“(l) The transfer of assets to Ran-Paige Company, Inc. pursuant to the Asset Sale shall be specifically free and clear of the Penalty of the Division of Occupational Safety and Health

of the North Carolina Department of Labor allowed against the Debtor pursuant to the Court's Order dated December 27, 1996, and the assessment of such Penalty against the Debtor, and any findings of Debtor violations, shall not be attributed in any way to Ran-Paige Company, Inc. or to any future business operation that may be conducted by Ran-Paige Company, Inc. at the former Youngsville premises of the Debtor."

(9) Paragraph 1.31 is amended by deleting subparagraph (iv) in its entirety, and by substituting in its place a new subparagraph (iv) as follows:

"(iv) the recovery proceeds on Debtor's Postal Service Damage Claim;"

(10) Paragraph 1.31 is amended by deleting subparagraph (v) in its entirety, and by substituting in its place a new subparagraph (v) as follows:

"(v) Proceeds from Debtor's collection of its outstanding Accounts Receivable, said Accounts Receivable to be determined as of the Closing Date and to include Work-In-Progress through that Date, limited by an amount equal to the sum of: (a) \$50,000; (b) the total of all outstanding post-petition Payroll and Trade Payables determined as of the Closing Date; and (c) the total of all Class 1 claims (excluding (b) above), and of all Class 2, and Class 3 claims, all as incurred or accrued through the Closing Date. The sum of (a), (b), and (c) as referenced above shall hereinafter be referred to as the "Aggregate Limitation". Ran-Paige shall not have standing to oppose or object to any claims, fees or expenses comprising the Aggregate Limitation."

(11) Paragraph 5.1 is amended by the addition on the last line of that paragraph, after the words "1.6(f) of the Plan", of the following: "and by a first, perfected security interest from Ran-Paige Company, Inc. in all accounts receivable generated by Ran-Paige post-Closing Date from work performed or goods produced in the Youngsville, N.C. premises, which premises is subject to the lease with Bailey Land Company to be assumed by Ran-Paige in connection with the Closing.

(12) Paragraph 1.6(c) is amended by addition at the beginning of such paragraph of the following phrase, "On the Closing Date,".

(13) Paragraph 1.6(d) is amended by adding at the end of subparagraph (d) the following language: "To effect both assumption of the Lease Agreement dated March 8, 1995, by and between Bailey Land Company, Inc., as Landlord, and Doninger Metal Products, Corp., as Tenant, and assignment of such Lease Agreement to the Ran-Paige Company, Inc., under which the Debtor was in default pre-petition, Ran-Paige shall, at closing,:

- (a) pay to the Franklin County Tax Assessor's office past-due ad valorem taxes for the real estate comprising the leased premises under the Lease Agreement (Franklin County Tax Assessor's account no. 50640) in the amount of \$12,125.74 as of February 26, 1996, increasing to \$12,128.74 as of February 28, 1996, and increasing on the first calendar day of each month, from and after March 1, 1996, until paid in full, at the rate of 0.0075 percent per month, as required by 11 U.S.C. § 365(b)(1)(A);
- (b) pay to the Franklin County Tax Assessor's office the amount of \$15,391.09 for past-due personal property taxes for 1994 and 1995, due on account no. 203280, as required by 11 U.S.C. § 365(b)(1)(A);
- (c) pay to Bailey Land Company, Inc. the amount of \$200.00 to cure past-due rent, due and owing for the months of April and May, 1995, together with any additional rental amounts that will have accrued under the Lease Agreement from and after March 1, 1996, as required by 11 U.S.C. § 365(b)(1)(A); and
- (d) pay to Bailey Land Company, Inc. \$10,192.00 in full satisfaction of attorneys' fees and expenses incurred by Bailey Land Company, Inc. as actual pecuniary loss resulting from the Debtor's default under the Lease Agreement, as required by 11 U.S.C. § 365(b)(1)(B); and
- (e) provide to Bailey Land Company, Inc. its most recent audited financial statement, together with a letter outlining changes in such financial statement since the date thereof (which changes will not have been audited), as adequate assurance of future performance under the Lease Agreement, as required, by 11 U.S.C. § 365(b)(1)(C).

(14) Paragraph 1.6(g) is amended by adding the following sentence to the end of such paragraph. "The language in Paragraph 1.6(f) notwithstanding, Bailey Land Company, Inc. shall retain a first priority, properly perfected security interest in all collateral in which it was granted a security interest on or about the date the Debtor and Bailey Land Company, Inc. entered into the Lease Agreement.

C. The modifications made by the Debtor as set out in its "Modification to Plan Prior to Confirmation" filed on January 31, 1996, and the oral modifications made in open Court (the January 31, 1996 "Modification to Plan Prior to Confirmation" and the oral modifications set out in Paragraph B above are hereinafter collectively referred to as the "Modifications"), do not adversely change the treatment of the claim of any creditor or the interest of any equity security holder who has previously accepted the Plan before the Modifications. (The Plan as modified

by the Modifications is hereinafter referred to as the "Modified Plan".)

D. Under the attendant circumstances no notice of said Modifications to creditors or equity security holders is necessary or appropriate. Acceptance of the Debtor's Plan by all creditors who previously accepted the Plan, prior to the Modifications, shall be deemed to be acceptance of the Modified Plan;

E. It having been determined after hearing on notice that the requirements for confirmation set forth in 11 U.S.C. § 1129 (a) and § 1129 (b) have been satisfied. In the evidentiary presentation made at the confirmation hearing, Ran-Paige Company, Inc. demonstrated and provided adequate assurance of future performance, within the meaning of 11 U.S.C. Section 365(b)(1)(C), of those leases and contracts to be assumed by assignment under the provisions of Paragraph 1.6 (c) of the Modified Plan;

F. Ran-Paige Company, Inc. anticipates that the Closing Date for consummation of the Asset Purchase pursuant to the Modified Plan will occur within ten days of the date of entry of this Confirmation Order. Consummation of the Asset Purchase by Ran-Paige Company, Inc. in compliance with the Modified Plan and this Order Confirming Plan shall be deemed to be in good faith within the purview of 11 U.S.C. Section 363(m), and such a Closing for the Asset Purchase by Debtor and Ran-Paige Company, Inc. in reliance on the provisions of 11 U.S.C. Section 363(m) is approved.

IT IS ORDERED THAT:

1. The Amended Disclosure Statement filed by the Debtor contains adequate information within the purview of 11 U.S.C. § 1125 and is unconditionally approved.
2. The Modified Plan is CONFIRMED.
3. Except as provided in this Order and the Debtor's Modified Plan or in 11 U.S.C. § 1141(d) of the Code, the Debtor is hereby released from all dischargeable debts.
4. Except as provided herein, the Debtor shall file Postconfirmation Reports with the Bankruptcy Administrator pursuant to 11 U.S.C. § 1106(a)(7). The first Postconfirmation Report shall be due on the earliest of June 30, September 30, December 31, or March 31 of the calendar year in which this Plan of Reorganization is confirmed. The Debtor shall file subsequent Reports at the end of every succeeding calendar quarter (June 30, September 30, December 31, or March 31), until the Plan is substantially consummated. Quarterly Reports shall reflect any progress made toward consummating the Plan during the period covered by the Report and shall be prepared in a format prescribed by the Bankruptcy Administrator.

5. Within thirty (30) days of substantial consummation of the Modified Plan, the Debtor shall file a final report, in a format prescribed by the Bankruptcy Administrator, reflecting the payments made for all costs of administration and each class of creditor, and a motion for the entry of a Final Decree pursuant to Rule No. 3022, F.R.B.P.

6. The Debtor shall pay to the Clerk, United States Bankruptcy Court, the sum of \$ 24.50 for court costs.

7. The Debtor and Ran-Paige Company, Inc. are authorized to consummate the Asset Purchase provided for and consistent with the provisions of the Modified Plan and this Order Confirming Plan in reliance on the provisions of 11 U.S.C. Section 363(m).

8. By its consent to the entry of this Order Confirming Plan, Ran-Paige Company, Inc.: (i) accepts and agrees to the provisions of the Modified Plan and this Order relating to the Asset Purchase and the obligations of Ran-Paige Company, Inc. under the Modified Plan; and (ii) consents to the Jurisdiction and Retained Jurisdiction of this Court regarding the Asset Purchase and any obligations of Ran-Paige Company, Inc. under the provisions of the Modified Plan or this Order.

9. The Debtor shall serve a copy of this Order, with the January 31, 1996 "Modification to Plan Prior to Confirmation", on all creditors within five (5) days of the the entry of this Order and promptly file a Certificate of Service with the Clerk.

DATED: MAR 07 1998

C. Thomas Swann
UNITED STATES BANKRUPTCY JUDGE

CONSENTED TO:

Ran-Paige Company, Inc. hereby accepts and agrees to the entry of this Order Confirming Plan, specifically including, without limitation, the provisions of Paragraph 8 of the Decretal portion of this Order set out above.

Ran-Paige Company, Inc.

By: *Jay M. Brodsky President*
Jay M. Brodsky, President

ATTEST:

Secretary (Corporate Seal)