

U. S. DISTRICT COURT
DISTRICT OF NEVADA
FILED

APR - 9 1971

JOHN A. PORTER, Clerk
BY TINA SPOKER DEPUTY

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

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|--------------------|---|--------------------|
| In the Matter of |) | In Proceedings for |
| |) | the Reorganization |
| COMBINED METALS |) | of a Corporation |
| REDUCTION COMPANY, |) | |
| Debtor. |) | No. LV 5541 |

ORDER APPROVING PETITION OF
RECEIVER TO COMPROMISE AND
SETTLE DISPUTE RESPECTING
LEASE

This cause came on for hearing on the 26th day of March, 1971, upon the petition of Paul Gemmill, trustee herein, to compromise and settle dispute respecting the termination of lease, and notice thereof having been given to the debtor, creditors, stockholders and other parties in interest; and the trustee appearing in person and being represented by John M. Barry, Esq., and William G. Fowler, Esq., Comet Coalition Mines Company being represented by Casey W. Vlautin, Esq., and Scott M. Matheson, Esq., and other appearances having been noted, and the court, for the purposes of this motion and pursuant to stipulation of counsel, having ordered that all of the records, evidence and testimony in W.T. Hudson, et al., Plaintiffs, v. Grand Deposit Mining Company, a Nevada corporation, et al., Defendants, Civil LV 1221, and Combined

Metals, Incorporated, a Nevada corporation, and Techmanix Corporation, a Nevada corporation, Plaintiffs, v. Combined Metals Reduction Company, a Utah corporation, Defendant, Civil LV 1157, be admitted as evidence in this case, the court finds the facts and states the conclusions of law as follows:

FINDINGS OF FACT

1. This proceeding was commenced on September 30, 1970, at which time Paul Gemmill was appointed receiver. On February 3, 1971, the court entered its order approving the petition and appointing Paul Gemmill trustee.
2. Prior to commencement of this proceeding, the debtor, Combined Metals Reduction Company, was in receivership in the case of Combined Metals, Incorporated, a Nevada corporation, and Techmanix Corporation, a Nevada corporation, v. Combined Metals Reduction Company, a Utah corporation, Civil LV 1157, and Paul Gemmill was the duly appointed receiver.
3. On December 1, 1956, Comet Coalition Mines Company leased to Combined Metals Reduction Company certain mining properties located in Lincoln County, Nevada, commonly referred to as the Pan-American Mine.
4. On November 1, 1964, Combined Metals Reduction Company entered into a joint venture with Grand Deposit Mining Company for the purpose of developing the Pan-American Mine. On February 5, 1965, Combined Metals Reduction Company assigned its interest in the lease of the

Pan-American Mine to Grand Deposit Mining Company and Combined Metals Reduction Company, pursuant to the terms of the joint venture agreement.

5. On August 28, 1968, Comet Coalition Mines Company gave Combined Metals Reduction Company and Grand Deposit Mining Company notice that the lease had been breached and that the lease would terminate pursuant to its terms if the breaches were not cured within sixty days, to-wit: October 10, 1968.

6. Subsequently, in Combined Metals, Incorporated v. Combined Metals Reduction Company, Civil LV 1157, and in W.T. Hudson, et al. v. Grand Deposit Mining Company, et al., Civil LV 1221, the issue of whether the lease was terminated due to breach thereof was heard by the court.

7. Substantial issues of fact and law were presented to the court regarding whether the lease has terminated and the matter is currently under submission to the court. Among other things presented to the court, the lessees contended that their breaches of the lease, if any, were excused by the non-ferrous metals strike which commenced in July, 1967. The lessor contended, among other things, that the strike did not excuse the breaches and that in fact some of the breaches occurred prior to the strike.

8. The terms of the lease provide that it will expire on December 1, 1971. The lease further provides that it may be renewed for an additional term only if the lessees have fully and faithfully complied with all of the covenants and conditions of the lease.

9. The trustee does not have adequate resources and capital to operate the mine pursuant to the terms of the lease, and that it would require, in addition to operating capital, the sum of between \$300,000.00 and \$500,000.00 to place the mine in economic production.

10. The mine has not been operated nor developed by the joint venture in a good workmanlike manner.

11. Comet Coalition Mines Company has filed claims against Grand Deposit Mining Company, Combined Metals Reduction Company, and Grand Panam Company, a joint venture, in the aggregate amount of \$15,482.54, and has incurred expenses totaling \$51,975.10 arising from assessment work and taxes against the leased property since the commencement of the receivership proceedings.

12. Paul Gemmill, trustee of Combined Metals Reduction Company and receiver of Grand Deposit Mining Company, and Comet Coalition Mines Company have agreed to compromise the dispute regarding the lease, upon the following basis, subject to court approval:

(a) That Comet Coalition Mines Company pay the sum of Ten Thousand Dollars (\$10,000) to the account of Combined Metals Reduction Company, Grand Deposit Mining Company, and Grand Panam Company, a joint venture, as their interests may respectively appear.

(b) That Comet Coalition Mines Company pay one percent (1%) of net smelter returns from the Pan American Mine ores in a total amount not to exceed \$40,000 to the account of Combined Metals Reduction Company,

Grand Deposit Mining Company, and Grand Panam Company, a joint venture, as their interests may appear, net smelter returns being defined as follows: the mill or smelter schedule value per dry ton received, less treatment, sampling, assaying, freight and haulage charges.

(c) That Comet Coalition Mines Company withdraw any and all claims against Combined Metals Reduction Company, Grand Deposit Mining Company and Grand Panam Company.

(d) That the lease be declared terminated and that Combined Metals Reduction Company, Grand Deposit Mining Company, and Grand Panam Company be declared to have no interest therein and be directed to surrender possession of the premises to Comet Coalition Mines Company.

13. The proposed compromise is fair, just and equitable and it is in the best interests of the debtor, its creditors, stockholders and other parties in interest, that the compromise be approved.

CONCLUSIONS OF LAW

1. There is a dispute between the debtor and Comet Coalition Mines Company regarding the validity of the lease, which dispute involves substantial questions of law and fact.

2. The proposed compromise is fair, just and equitable and it is in the best interests of the debtor that the compromise be approved.

3. The compromise between the trustee and Comet Coalition Mines Company to settle the dispute respecting lease should be approved.

Lincoln County

NOW, upon all the proceedings had before and good cause appearing therefor, it is hereby

ORDERED:

1. That the proposed compromise and settlement be, and the same hereby is, approved.
2. That Comet Coalition Mines Company shall pay one percent (1%) of net smelter returns from the Pan American Mine in a total amount not to exceed Forty Thousand Dollars (\$40,000) to the account of Paul Gemmill, trustee of Combined Metals Reduction Company, Paul Gemmill, receiver of Grand Deposit Mining Company, and Grand Panam Company, a joint venture, as their interests may respectively appear.
3. That Comet Coalition Mines Company shall withdraw any and all claims against Combined Metals Reduction Company, Grand Deposit Mining Company, or Grand Panam Company, arising from said lease agreement.
4. That the lease shall be and it is hereby terminated and that Combined Metals Reduction Company, Grand Deposit Mining Company, and Grand Panam Company, be, and they hereby are, declared to have no interest therein and that they be, and they hereby are, directed to surrender possession of the premises to Comet Coalition Mines Company.

DATED this 8th day of April, 1971.

52726

FILED AND RECORDED AT REQUEST OF
CASEY W. VAUGHN
APRIL 9, 1971
 AT 1 MINUTES PAST 9 O'CLOCK
4 AM IN BOOK 7 OF OFFICIAL
 RECORDS, PAGE 102 LINCOLN
 COUNTY, NEVADA.

James B. Walker
 COUNTY RECORDER

ROGER D. FOLEY
 ROGER D. FOLEY
 United States District Judge

I hereby attest and certify on 9-29-71
 that the foregoing document is a full, true and correct
 copy of the original on file in my office, and in my
 legal custody.

JOHN A. PORTER
 CLERK, U. S. DISTRICT COURT
 DISTRICT OF NEVADA

By Sydney Walker Deputy