

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

PIONEER CAPITAL CORPORATION,  
d/b/a PIONEER PRIVATE CAPITAL,  
Plaintiff

v.

ENVIRONAMICS CORPORATION,  
Defendant

and

GOULDS PUMPS, INCORPORATED,  
Party-in-Interest

Civil No. 02-217-P-C

**ORDER AFFIRMING THE  
RECOMMENDED DECISION OF THE MAGISTRATE JUDGE**

The United States Magistrate Judge having filed with the Court on February 14, 2003, with copies to counsel, his Recommended Decision on Defendant's Motion to Dismiss and Plaintiff's Motion for Appointment of Receiver (Docket Item No. 20); and Defendant having filed its objection thereto on March 6, 2003, (Docket Item No. 21), to which objection Plaintiff filed its response on March 21, 2003 (Docket Item No. 24); and this Court having reviewed and considered the Magistrate Judge's Recommended Decision, together with the entire record; and this Court having made a *de novo* determination of all matters adjudicated by the Magistrate Judge's Recommended Decision, and concurring with the recommendations of the United States Magistrate Judge for the reasons set forth in his Recommended Decision, it is **ORDERED** as follows:

- (1) Defendant ' s objection is hereby **DENIED**;
- (2) The Recommended Decision of the Magistrate Judge is hereby **AFFIRMED**;

- (3) Defendant Environamics' motion to dismiss or to stay the instant action is hereby **DENIED**.
- (4) Defendant Environamics Corporation's request for a thirty (30) day deferral of the appointment of a Receiver is hereby **DENIED**.
- (5) Plaintiff Pioneer's motion for appointment of a Receiver *pendente lite* is hereby **GRANTED**.
- (6) It is **FURTHER ORDERED** that Steven Thing, C.P.A., be and he is hereby, appointed as Receiver *pendente lite*, with powers and authority to be as follows:
  - (a) To manage, operate, protect, and preserve the assets and property owned by Environamics, to continue the operation of Environamics, and to collect all revenues and profits from such operations and apply the same to the payment of all expenses and other charges of such receivership, including the compensation of the Receiver, and to the payment of Environamics' obligations to Pioneer until a foreclosure sale or other disposition of such Collateral shall be finally made.
  - (b) To examine and, as necessary, make copies of the records and accounts of Environamics relating to the management of Environamics and report to the Court on the same during the pendency of this action.
  - (c) To apply the revenues and profits received from the management and operation of Environamics in the following manner:
    - (i) Payment of the ordinary and necessary expenses of operating the business, including, without limitation, the payment of taxes, materials, supplies, utilities, payroll, insurance premiums, and other necessary operating expenses;
    - (ii) Payment of the costs, expenses, and fees of the Receiver and agents of the Receiver; and
    - (iii) Payment of principal and interest and other sums owing to Pioneer on its Note.
  - (d) To collect the revenues, profits, accounts receivable, and all other obligations owing to Environamics, to bring action, if necessary, in order to collect the same, and to settle and compromise any of such accounts receivable, debts, or obligations whenever the Receiver shall deem it advisable to do so, upon such terms and conditions as appear to the Receiver to be justifiable.
  - (e) To operate the business as a going concern and, in connection therewith, negotiate and enter into contracts, to renegotiate and terminate contracts, to sell goods, hire and fire employees, and do all things Environamics could or would do in the ordinary course of operating its business, and to compromise obligations where it appears in the Receiver's best judgment to be in the best interest of preserving the assets and property of Environamics entrusted to the Receiver.

- (f) To enter into contracts, incur and discharge obligations and make expenditures from the available income and receipts of Environamics for labor, insurance, equipment, inventory, and supplies currently required and to pay routine operating expenses of all types.
  - (g) To pay the agents and employees whom the Receiver hires or continues in employment such compensation for their services as the Receiver deems to be proper.
  - (h) To employ an attorney if, in the judgment of the Receiver, legal advice, counsel, or consultation is required in connection with the performance of the duties of the Receiver, and to prosecute actions to collect any sums or obligations due as appears advisable.
  - (i) To expend reasonable sums in the repair and maintenance of the assets and property of Environamics in the possession of the Receiver which expenditures, in the best judgment of the Receiver, are necessary to preserve and maintain such property pending the outcome of this litigation.
  - (j) To do anything the Receiver reasonably deems necessary to perform the duties set forth above.
- (7) It is **FURTHER ORDERED** that the Receivership created above shall be dissolved by further order of this Court upon a showing of Environamics Corporation's payment of the sum of One Million Five Hundred Thousand Dollars (\$1,500,000.00) into the Registry of this Court as security for recovery by Pioneer on its claims herein, taxable costs and interest thereon, and payment of all costs of the operation of the Receivership to the time of dissolution by order of the Court.
- (8) It is **FURTHER ORDERED** that Defendant Environamics' request for a thirty (30) day deferral of entry of this order be, and it is hereby, **DENIED**.

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GENE CARTER  
Senior United States District Judge

Dated at Portland, Maine this 23rd day of April, 2003.

[Counsel List Follows.]

**Plaintiff**  
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**PIONEER CAPITAL  
CORPORATION**

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*dba*  
**PIONEER PRIVATE CAPITAL**

v.

**Defendant**

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CORPORATION**

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