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SEP 15 2003

ENTERED  
SEP 15 2003  
WILLIAM T. WALSH, CLERK  
By \_\_\_\_\_  
(Deputy Clerk)

INTERFAITH COMMUNITY ORGANIZATION, et al.,  
  
Plaintiffs,  
  
v.  
  
HONEYWELL INTERNATIONAL, INC., et al.,  
  
Defendants.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

Civil Action No. 95-2097(DMC)

ORDER SETTING FINANCIAL ASSURANCE FOR HONEYWELL INTERNATIONAL, INC.

THIS MATTER having come before the Court upon motion of the Special Master appointed in the above-captioned case for an Order approving the Recommendation of the Special Master for Financial Assurance to assure that the remedial actions ordered by the Court and memorialized in the Court's Judgment of June 30, 2003 (the "Judgment") are completed, and good cause appearing therefore;

IT IS on this 12 day of ~~August~~ <sup>SEPT.</sup>, 2003,

ORDERED that within 7 days of entry of this Order, defendant, Honeywell International, Inc. ("Honeywell"), shall deliver to the Special Master a corporate guarantee in the amount of \$400 million ("Corporate Guarantee");

ORDERED that the \$400 million Corporate Guarantee comply with the financial proofs and guarantees set forth at N.J.S.A. 58:10B-3(f) and N.J.A.C. 7:26C-7.7;

ORDERED that Honeywell shall deliver to the Special Master copies of quarterly ("10Q") and annual ("10K") financial reports which are filed with the Securities and Exchange Commission;

ORDERED that the Special Master may apply to this Court to modify the amount of the corporate guarantee if it is determined that the \$400 million cost estimate to complete the remedial actions has increased or decreased;

ORDERED that Honeywell post a one-year, irrevocable LOC to be automatically renewed annually in the amount of \$200 million issued by a financial institution domiciled in the United States or by a United States subsidiary of a non-U.S. financial institution provided that, in either case, the financial institution shall be acceptable to the Special Master (the initial letter of credit and any subsequent replacement provided pursuant to this Order shall hereinafter be referred to as the "irrevocable LOC");

ORDERED that the irrevocable LOC shall be automatically renewed annually unless the issuer provides notice of nonrenewal no later than 120 days prior to the anniversary of the irrevocable LOC issue date (the "LOC Notice");

ORDERED that if the LOC Notice is given, Honeywell shall obtain a replacement irrevocable LOC at least ninety-five (95) days prior to the expiration date of the existing irrevocable LOC;

ORDERED that, provided Honeywell is not otherwise in default as provided hereunder, ninety-one (91) days after delivery to the Special Master of any replacement irrevocable LOC in conformance with this Order, the Special Master will direct the cancellation of the prior irrevocable LOC;

ORDERED that in the event the Special Master is entitled to draw upon an irrevocable LOC during any time when there are two letters of credit currently in place the Special Master shall not draw an aggregate amount in excess of \$200 million;

ORDERED that, upon Honeywell's request, the Special Master may, at his option, decide not to require overlapping letters of credit as required by this Order in any year based on Honeywell's financial strength in that year, provided Honeywell has submitted all necessary information so that the Special Master can make his determination 150 days prior to the expiration date of the irrevocable LOC;

ORDERED that neither the irrevocable LOC nor the proceeds of the irrevocable LOC shall be considered the property of Honeywell or property of the estate in the event of Honeywell's bankruptcy;

ORDERED that the irrevocable LOC contain the language necessary to assure that neither the irrevocable LOC nor the proceeds of the irrevocable LOC shall be impacted or restricted in any way by operation of the automatic stay of 11 U.S.C. § 362;

ORDERED that the irrevocable LOC shall be payable to the Special Master and shall not, prior to its expiration date, be revoked or terminated without the consent of the Special Master and approval by this Court;

ORDERED that the irrevocable LOC shall recite that the issuer submits to the exclusive jurisdiction of this Court for any and all disputes arising under the irrevocable LOC;

ORDERED that the provisions of the Uniform Customs and Practice ("UCP") for Documentary Credits (1993 Revision) International Chamber of Commerce Publication #500 and New York law shall apply to the irrevocable LOC;

ORDERED that the Special Master may, without further order of or notice to this Court or notice to or approval by Honeywell or any other party, draw upon the irrevocable LOC upon the occurrence of an event of default by Honeywell, which shall include:

a) the failure of Honeywell, in the event a LOC Notice is given, to deliver a replacement irrevocable LOC at least ninety-five (95) days prior to the expiration date of the existing irrevocable LOC;

b) the material failure of Honeywell to proceed with diligence and in good faith to carry out the Judgment of the Court and the continuance of such a material breach for a period of fifteen (15) days after written notice to Honeywell thereof and Honeywell, in the opinion of the Special Master without further input from the parties, shall have failed to cure the breach, or during the fifteen day period this Court has not entered an order to prevent the Special Master from drawing on the irrevocable LOC or this Court or the Special Master has not granted Honeywell additional time to cure the breach;

c) The filing by Honeywell of a petition seeking relief, or the granting of relief, under the Federal Bankruptcy Code or any similar federal or state statute; any assignment for the benefit of creditors made by Honeywell; or the involuntary filing of any of the foregoing against Honeywell if the involuntary filing has not been dismissed within 60 days; the appointment of a custodian,

receiver, liquidator or trustee or other similar official for Honeywell or for a substantial part of Honeywell's property, or any action by Honeywell to effect any of the foregoing; or if Honeywell becomes insolvent as defined in Section 101(32) of the Federal Bankruptcy Code; or

d) the dissolution, liquidation, merger, consolidation or reorganization of Honeywell or the institution of any proceeding to effect any of the foregoing, other than under subsection (c) above, and the failure of Honeywell to provide assurance to the Special Master, within fifteen (15) days after written notice thereto, that such an event will not impair Honeywell's ability to carry out the Judgment of the Court;

ORDERED that in the event the Special Master draws upon the irrevocable LOC due to an event of default, the Special Master shall place the proceeds of the irrevocable LOC in an account with the Court Registry Investment System ("C.R.I.S.") in accordance with Local Civil Rule 67.1 and not expend the proceeds of the irrevocable LOC without further order of this Court;

ORDERED that the Special Master's ability to draw on the irrevocable LOC shall not be limited by any agreement between Honeywell and the issuer;

ORDERED that Honeywell shall submit the proposed irrevocable LOC in a form consistent with this Order to the Special Master and parties for review and approval within 10 days of entry of this Order and if neither the Special Master, nor the parties can agree on the proposed form of the irrevocable LOC, then the form of the irrevocable LOC shall be submitted to this Court for review and approval;

ORDERED that in the event that the financial condition of Honeywell changes or the estimated cost of remediation changes, the Special Master may make further application to this Court to require Honeywell to post further financial assurance;

ORDERED that upon completion of the remediation or upon the entry of an Order directing the Special Master to return the irrevocable LOC, the irrevocable LOC shall be returned to the issuer or, if the irrevocable LOC has been drawn upon, the Special Master shall return any remaining proceeds thereof to Honeywell;

ORDERED that within 5 days of entry of this Order, Honeywell shall deposit the sum of \$3 million into a single purpose interest-bearing escrow account (the "Escrow Account") with Connell Foley, LLP, counsel to the Special Master, which shall serve as security for the payment of the fees and expenses of the Special Master and his Court-appointed professionals;

ORDERED that the funds deposited in the Escrow Account shall be invested in 30 and/or 90-day treasury certificates;

ORDERED that simultaneously with its deposit of the funds into the Escrow Account, Honeywell shall provide written confirmation to the Special Master that it has relinquished and waived any and all rights and interests it may have to the funds in the Escrow Account to the extent required to fulfill the duties and obligations of the Special Master;


ORDERED that payments approved and/or ordered by this Court to compensate for fees and costs associated with the Special Master, his professional and/or other technical personnel shall be paid from the Escrow Account upon notice to all parties and the Court;

ORDERED that upon receipt of notice from the Special Master that the balance in the Escrow Account has fallen below \$2.5 million, Honeywell shall have fifteen (15) business days to replenish the Escrow Account to the full amount of \$3 million; should Honeywell fail to replenish the Escrow Account within fifteen (15) business days, then the Special Master may seek further relief from this Court;

ORDERED that upon completion of the remediation and the Special Master's duties hereunder and termination of the Special Master's appointment, any funds in the Escrow Account shall be returned to Honeywell pursuant to an Order of the Court; and it is further

ORDERED that in the event of any dispute between the terms of the Corporate Guarantee, the irrevocable LOC, or the Escrow Account, the terms and conditions of this Order shall control.

Dated: *Sept 12, 2003*

  
Hon. Dennis M. Cavanaugh  
United States District Judge