

**STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF MACOMB**

MICHIGAN FIRST CREDIT UNION

Case No.: 06-002548-CK
Honorable Mark Switalski

Plaintiff

vs.

AL LONG FORD, INC.,
a foreign corporation

Defendant.

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**ORDER MODIFYING COURT ORDER
OF APRIL 6, 2009, AS TO APPEAL BOND**

Upon the Court ordering the parties to appear for hearing, and the Court being fully advised in the premises, it is hereby ordered that:

1. This Order modifies and supersedes the Order of this Court dated April 6, 2009, with respect to bond and stay of proceedings.

2. The Court finds that procurement of a Letter of Credit in lieu of bond serves to satisfy Al Long Ford, Inc.'s obligations under MCR 7.209(F)(1) to promise in writing in a bond to:

A. Prosecute an appeal of the Judgment of Court to decision;

B. To perform or satisfy a judgment or order of the Court of Appeals or the Supreme Court;

C. To perform or satisfy the judgment or order appealed from, if the appeal is dismissed; and

D. To do any other act which is expressly required in the statute authorizing appeal.

3. In lieu of stay and appeal bond, the Receiver shall obtain an irrevocable bank letter of credit ("Letter of Credit") on behalf of Al Long Ford, Inc. for the benefit of Michigan First Credit Union in the amount of Eight Hundred Three Thousand Two Hundred Thirty Two and 63/100 Dollars (\$803,232.63)

4. Except as otherwise provided by law or court rule, a Stay of Proceedings is entered pending the outcome of the Appeal and the Order of the Court of Appeals or Supreme Court.

5. The Receiver currently has Eight Hundred Five Thousand Five Hundred Sixty Two and 39/100 Dollars (\$805,562.39) (including interest accrued through March 31, 2009) in a segregated interest-bearing account at Franklin Bank. The referenced account is FDIC insured to the extent such insurance is provided by law. The Receiver shall use these

funds to secure the issuance of the Letter of Credit and to pay related fees to the extent possible.

6. The Receiver currently holds Ten Thousand and 00/100 Dollars (\$10,000.00) in the Caputo Brosnan P.C. Client Trust Account. The Receiver is directed to utilize funds held in the Caputo Brosnan P.C. Client Trust Account, as may be necessary, to pay remaining bank fees associated with issuance of the Letter of Credit.

7. The Receiver shall pay future bank fees associated with maintaining the Letter of Credit out of interest earned on the segregated account or if such interest shall not be sufficient the Receiver shall pay such fees out of funds belonging to Al Long Ford, Inc. held in the Caputo Brosnan P.C. Client Trust Account.

8. The Receiver shall hold the funds remaining in the Caputo Brosnan P.C. Client Trust Account subject to the conditions of prior Orders of this Court and no funds may be disbursed without a future Order of this Court except as otherwise provided herein.

9. The Letter of Credit shall issue for the purpose of securing the Judgment of this Court, including post judgment interest thereon in favor of Michigan First Credit Union and Michigan First Credit Union shall be the named beneficiary.

10. Upon final adjudication of all litigation in this matter including appeals, remand of issues to this Court and any subsequent appeals, Michigan First Credit Union shall issue its sight draft against the Letter of Credit subject to the following conditions:

A. The sight draft shall be in the amount of any final non-appealable judgment in favor of Michigan First Credit Union, but shall not exceed Eight Hundred Three Thousand Two Hundred Thirty Two and 63/100 Dollars (\$803,232.63).

B. The sight draft shall be countersigned by Anthony J. Caputo, the Receiver for Al Long Ford, Inc.

C. Upon issuance of its sight draft or a final order of the Court of Appeals or Supreme Court that Michigan First Credit Union is not entitled to a monetary judgment against Al Long Ford, Inc., Michigan First Credit Union shall provide the Receiver its written Order to the issuing bank stating that the Letter of Credit is discharged and that the issuer shall release any remaining security to the Receiver.

D. Upon the discharge of the Letter of Credit, the Receiver shall retain any remaining funds in his possession pending further order of this Court.

11. The Receiver shall establish Letter of Credit terms that provide it may be drawn upon or may be discharged that are consistent with this Order.

12. This Court shall maintain jurisdiction over this matter as to the Receivership until the Receiver is discharged.

THIS IS A FINAL ORDER OF THE COURT SUBJECT TO THE CONTINUING JURISDICTIONAL PROVISIONS CONTAINED HEREIN.

Dated: _____

MARK S. SWITALSKI
CIRCUIT COURT JUDGE

MAY 01 2009
A TRUE COPY
CARMELLA SABAUGH, COUNTY CLERK
BY: *Janette Seunye*, Court Clerk