

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

ROBERT JEAN, et al.,

Plaintiffs,

v.

THE STANLEY WORKS, et al.

Defendants.

CASE NO. 1:04 CV 1904

JUDGE CHRISTOPHER BOYKO

**Declaration of Michael McCall in
Opposition to Stanley's Motion to
Compel Arbitration and Dismiss**

I am Michael McCall, a former MDSR and later District Manager of the Mac Tool's Division of the Stanley Work's ("Mac") from 1999 until September 11, 2001. This declaration is based on my own personal knowledge and experience. I am providing this declaration at the request of plaintiffs' counsel without receiving any valuable consideration or the promise of any compensation or consideration. The content is voluntarily provided and completely truthful.

I spearheaded Mac President John Aden's MDSR conversion program. I was in Columbus, working directly with Mr. Aden and other managers. I met regularly with Mr. Aden and various management people with Stanley, over the course of three years, including John Trani, Stanley's CEO. Mac

adopted a number of financial policies that had a negative impact on tool distributors. These policies were designed to “strengthen” Mac’s accounting reports and SEC filings. They were predominantly self-serving to Mac, and detrimental to the distributors.

Because of the positive accounting effects on Mac’s bottom line, Mac decided to convert MDSR’s to Traditional Distributors. This conversion was facilitated by a Mac scheme tactically deployed in December of 2000. Mac intentionally caused substantial financial hardship on the MDSR’s at the start of the holiday season, after receiving a drastically reduced paycheck, and immediately prior to the MDSR being presented with conversion option and documents. These documents ostensibly obligated the converted distributor for over \$100,000 of previous Mac Debt, inventory and trucks.

First, Mac unilaterally lowered the MDSR compensation matrix. The pay change was drastic. Some of the MDSR’s under my supervision who had been steadily earning \$6,000-\$8,000 per month, received absolutely or virtually nothing for the first December 2000 paycheck. Having put the MDSR’s under financial pressure, a few days later, Mac sent the first wave of conversion packages. Mac guaranteed conversion to the first 150 applicants from its intentionally weakened and pressured MDSR’s.

John Aden personally instructed me to convert 40 MDSR's prior to the end of the year to "make the numbers," when it was obvious I could not do so within the 10 business days mentioned in the documents. I and the other District Managers were paid cash bonuses for each signed conversion, and threatened with our jobs if we failed to aggressively convert the number of MDSR's required for Aden and Mac management to "make the numbers" to be reported by Stanley for the quarter. We therefore pressured MDSR's to immediately convert and return their documents, many times within 24 hours.

Mac received substantial accounting benefits upon the conversion of each MDSR to a Traditional. Prior to the conversion of an MDSR employee to a Traditional Distributor, Mac's accounting books and records would show:

1. Aged, non-performing and uncollectible accounts receivable;
2. Substantial costs associated with the payment of salaries and benefits of the MDSR's, a national sales force which at times approached 1000 people; and
3. The MDSR tool trucks booked as assets, but partially or totally depreciated. The unsold inventory, previously filling the MDSR trucks, was booked at cost. Mac also had millions of dollars of "DNI" inventory. "DNI" meant do not inventory. The "DNI" inventory covered the size of a football field squared. About 25% of the "DNI" inventory was received, or taken from, prior Traditional Dealers who had failed or retired. Substantially all of the 10,000 sq. yards of tools were shrink-wrapped and placed on pallets.

4. On a regular and repeated basis, Mac represented to existing dealers and new recruits, "Your tool inventory is your retirement because you can always sell it back to the company." However, the failed or retired distributors' inventory was substantially rejected by Mac as obsolete or otherwise worthless when returned by the distributor for cash or fair value credit.

After the conversion of MDSR employees to a Traditional Dealers,

Mac's accounting books and records would show:

1. The aged, non-performing, and uncollectible accounts receivable were sold to the converting MDSR's and booked at substantially full value. Mac also rolled uncollectible debt, previously written off by Mac, into the debt of the converting MDSR. This debt was resurrected from "worthless," (and a prior tax deduction benefit to Mac), to a near full value asset.
2. The average MDSR's annual compensation and benefits approximated \$80,000. Mac therefore slashed an approximate \$80 Million in annual salaries. Mac also avoided millions of dollars in annual costs associated with running an employee distributor force, as opposed to an independent distributor force.
3. Hundreds of millions of dollars of unsold inventory was booked as sold to the converting distributors. The trucks were also leased to the new Traditional Distributors at higher values. Some of the inventory loaded onto converting MDSR trucks came from the "DNI" warehouse, and was therefore 100% profit on Mac's books.

Every MDSR converted to a Traditional Distributor was saddled with loans that should not have been made, given the lack of economic viability of the distributorships, and the fiscal inability of the new distributor to service the debt.


Mac has repeatedly and consistently employed bad faith and unscrupulous business practices in dealing with Distributors.

In one such scheme, Stanley CEO, John Trani, devised a policy of using identifying letters or numerals stamped on tools currently in production, but not yet shipped, to establish a fictitious obsolescence date. This scam was used by Mac to claim that tools which were otherwise identical in design, manufacture, and functionality, were "obsolete," thereby relieving Mac of its contractual obligations, and long-standing promises to pay fair market value for returned inventory. This "obsolete" inventory was thereafter sold by Mac at full value to fresh recruits, including converting MDSR's, over the internet, to retail stores, or to the casualty insurers of those end users whose tools were lost or destroyed by a covered event. Mac sold the inventory to the casualty insurer at substantial discount, and the casualty insurer replaced the destroyed tools in kind. The distributor serving the end user of the destroyed, and then replaced, tools was cut out of the sale.

As a Mac District Manager, I saw other Mac managers segregate portions of the tools returned to Mac by failed and retired Distributors. The Distributor was given no credit for the segregated portion. This value was realized by either Mac, when it sold the "obsolete" inventory, and/or the DM's personally, when they sold the diverted tools, sometimes directly to DM's distributors' customers.

Mac management repeatedly admitted and acknowledged that the distributorships that Mac was selling were in truth and fact, franchises. Nevertheless, Mac only began collecting signed acknowledgments from recruited Distributors towards the end of 2000. Mac had been selling the same distributorship franchises for decades without making any of the required disclosures, or securing the written acknowledgment of the required disclosures.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 6th day of June, 2005, in Tampa, Florida.



Michael McCall