

Exhibit D

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

MICHIGAN SALES & EQUIPMENT,
Plaintiff,

v.
KUBOTA TRACTOR CORPORATION,
Defendant.

Case No. 2:16-cv-00088-RAED-RSK
Hon. R. Allan Edgar

STIPULATED INJUNCTIVE AND VOLUNTARY TERMINATION ORDER

Plaintiff Michigan Sales & Equipment, Inc. ("MSE") and Defendant Kubota Tractor Corporation ("Kubota") having stipulated through counsel to this order as outlined below and the Court being otherwise fully advised in the premises,

IT IS HEREBY ORDERED that:

1. The Court's injunctive order (Doc. # 14) is extended until July 25, 2016 unless it expires earlier because MSE fails to satisfy any of the conditions described below. The Order will expire and this lawsuit shall be dismissed immediately upon Kubota's submission of a filing entitled "Notice of Order Expiration and Dismissal."

2. MSE must provide Kubota with a signed written agreement between MSE and a proposed buyer or investor on or before June 20, 2016.

3. Any agreement signed by MSE and a proposed investor must provide that, upon approval of the investor by Kubota: (a) the investor agrees to

immediately provide MSE with at least \$1 million in new financing (the “Capital Infusion”) without MSE or its current owner incurring any additional debt; (b) MSE agrees to use a portion of the Capital Infusion to immediately establish a \$350,000 irrevocable Letter of Credit in Kubota’s favor; (c) MSE agrees to immediately pay (i) all unpaid taxes, interest, and penalties which are subject to any outstanding lien, and (ii) all other unpaid taxes (including interest and penalties), provided, however, that if such other taxes are subject to an existing payment agreement, then MSE agrees to stay current and pay as agreed; and (d) within sixty (60) days of any approval by Kubota of the new investor, MSE shall hire an experienced store manager who will be responsible for the day-to-day operations of the business.

4. Any proposed buyer or investor must provide Kubota with all documents and information requested by Kubota for purposes of evaluating the qualifications of the buyer/investor on or before June 27, 2016. On or before April 29, 2016, Kubota will provide MSE with a list of all required information and documents from any investor or buyer.

5. Kubota will have 28 days to approve or reject the buyer/investor. Kubota will not reject the proposed buyer/investor without good cause.

6. If Kubota rejects the buyer/investor for good cause, then (i) MSE will not contest this decision by Kubota; (ii) this Order will expire on July 25, 2016; (iii) the Dealer Sales and Service Agreement dated August 10, 2004 (“DSSA”) will be deemed voluntarily terminated; and (iv) the lawsuit will be dismissed with prejudice.

7. Notwithstanding any provision in any Dealer Sales and Service Agreement that may be entered into by Kubota with any approved investor or buyer, in the event of any “out of trust” sale or nonsufficient funds payment (EFT or check) by MSE during the twelve (12) month period immediately following the entry of this Order, then, upon request by Kubota, MSE will immediately, voluntarily terminate as a Kubota dealer; provided, however, that MSE shall first be entitled to notice (by mail and email) and a five (5) business day opportunity to cure from the date of the email, and that there shall be no more than two such cure periods permitted during the applicable twelve month period.

8. If Kubota approves a proposed investor or buyer, the parties will submit a stipulated order of dismissal with prejudice. The Court, however, will maintain jurisdiction to enforce the terms of this Order.

9. If Kubota approves a proposed investor, and upon the establishment of the irrevocable Letter of Credit identified in paragraph 3, Kubota will immediately establish in favor of MSE a floor plan line of credit for new or used Kubota equipment in the amount of \$800,000.00, on Kubota’s standard terms and conditions, provided that used equipment transactions shall be subject to Kubota approval and shall not exceed \$80,000.00 in the aggregate at any one time.

10. If Kubota approves a proposed investor, then Kubota agrees to consider in good faith in accordance with its usual process a request by MSE to relocate the MSE business location.

IT IS FURTHER ORDERED that: while this Order remains in effect, MSE shall place all part orders as part of MSE's daily stock order. Kubota will advise MSE of the cost and MSE will pay this cost by cashier's check prior to shipment.

Date: April 25, 2016

/s/ R. Allan Edgar
Hon. R. Allan Edgar
United States District Judge

SO STIPULATED:

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

MICHIGAN SALES AND EQUIPMENT,
Plaintiff,

v.

Case No. 2:16-CV-88
HON. R. ALLAN EDGAR

KUBOTA TRACTOR CORPORATION,
Defendant.

MEMORANDUM

This is a suit originally brought in state court by Michigan Sales and Equipment, a Michigan corporation, (Michigan Sales), a franchisee of Kubota Tractor Corporation, a California Corporation, (Kubota), alleging *inter alia* that Kubota lacked good cause to terminate their franchise agreement. After the state court issued an ex parte temporary restraining order enjoining the franchise termination, Kubota removed the case to this Court. This Court scheduled a hearing on Michigan Sales' request for a preliminary injunction. The parties then agreed upon a "Stipulated Injunctive and Voluntary Termination Order," which this Court entered.

This stipulated order extended the existing injunctive relief to provide time for Michigan Sales to acquire a buyer acceptable to Kubota. Under the order, Michigan Sales was to provide Kubota with a signed written agreement between Michigan Sales and a proposed buyer on or before June 20, 2016. The parties agree that this did not happen. Under the terms of the stipulated order, this case must therefore be dismissed upon the request of Kubota.

In general, federal district courts lack subject matter jurisdiction to enforce settlement agreements between parties *unless* the parties express their desire for the court to enforce the agreement. *See Kokkonen v. Guardian Life Ins. Co. of America*, 511 U.S. 375, 375-

76, 381 (1994) (“If the parties *wish* to provide for the [federal] court’s enforcement of a dismissal-producing settlement agreement, they can seek to do so.”). Here, the parties agreed to court enforcement. They stated in the “Stipulated Injunctive and Voluntary Termination Order” (ECF No. 19) that they wished for this case to be dismissed by the Court upon Kubota’s submission of a “Notice of Order Expiration and Dismissal.” Kubota filed this notice on June 21, 2016. ECF No. 22. Accordingly, the Court has jurisdiction to enforce this settlement agreement between the parties.

Therefore, a judgment will enter dismissing this lawsuit.

IT IS SO ORDERED.

Date: 6/28/2016

/s/ R. Allan Edgar
HON. R. ALLAN EDGAR
UNITED STATES DISTRICT JUDGE

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

MICHIGAN SALES AND EQUIPMENT

Plaintiff,

Case No. 2:16-cv-88

v.

HON. R. ALLAN EDGAR

KUBOTA TRACTOR CORPORATION

Defendant.

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JUDGMENT

Pursuant to the stipulated injunctive and voluntary termination order agreed to by the parties and entered by the court, all injunctive relief granted by both the state and this court is hereby terminated, and this case is hereby DISMISSED WITH PREJUDICE without costs.

IT IS ORDERED

Dated: 6/28/2016

/s/ R. Allan Edgar
R. ALLAN EDGAR
UNITED STATES DISTRICT JUDGE