

Pamela Ondik, et al vs. ACandS, Inc., et al
Volume One

Theodore Brodie

December 5, 200

COMMONWEALTH OF MASSACHUSETTS
Middlesex, ss. Superior Court Department
of the Trial Court
No. 00-2463

PAMELA A. ONDIK, PAUL D. ONDIK, *
MICHAEL F. ONDIK, and MEGAN ONDIK, *
Plaintiffs, *

vs.

ACandS, INC., et al, *
Defendants *

DEPOSITION OF THEODORE BRODIE (Volume One),
a witness called on behalf of the Plaintiffs,
taken pursuant to the applicable provisions of
the Massachusetts Rules of Civil Procedure,
before Lorene R. Eppley, CSR, Registered
Professional Reporter and Notary Public within
and for the Commonwealth of Massachusetts, at the
Law Offices of Cetrulo & Capone, 2 Seaport Lane,
10th Floor, Boston, Massachusetts, on Tuesday,
December 5, 2000, commencing at 10:07 a.m.

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1 Representing FCI USA: SMITH & DUGGAN, LLP 2 Two Center Plaza Boston, MA 02108 3 BY: CHRISTINA SCHENK-HARGROVE, ESQ. (617) 248-1900 (617) 248-9320 (Fax) 4 5 Representing Combustion Engineering and Eckel Industries: 6 GOVERINO and KAVANAGH 99 High Street 7 Boston, MA 02110 BY: JENIFFER A. PETERSON, ESQ. 8 (617) 423-4500 (617) 423-4505 (Fax) 9 10 Representing Graybar Electric: TOOMEY & YUDYSKY, LLP 99 Summer Street 11 Boston, MA 02110 BY: KATHERINE E. HOFFMAN, ESQ. 12 (617) 946-0930 (617) 946-0989 (Fax) 13 14 15 16 17 18 19 20 21 22 23 24	1 PROCEEDINGS 2 3 THEODORE BRODIE, Deponent, having first been 4 duly sworn, deposes and states as follows: 5 6 DIRECT EXAMINATION BY MR. SHEPARD: 7 8 Q. Good morning, Mr. Brodie. 9 A. Morning. 10 Q. I know you've been at a couple of 11 depositions before. I'm just going to run 12 through a couple of ground rules so we're both on 13 the same page. The court reporter is here taking 14 down all of the testimony, questions and answers 15 today. It's, therefore, important that only one 16 of us speak at a time. I will attempt to wait 17 for you to finish your answer before I begin my 18 next question, and if you could wait for me to 19 finish my question before you begin your answer. 20 Also, you need to answer all questions 21 verbally, so nods of the head and words like 22 "uh-huh" aren't reflected in the record very 23 well. If you need to take a break at any time, 24 let us know. If you don't understand any
6	8
1 INDEX 2 WITNESS DIRECT CROSS REDIRECT RECROSS 3 4 THEODORE BRODIE 5 Mr. Shepard 7 Mr. Kirby 206 Mr. Sah 230 6 7 8 9 10 EXHIBIT PAGE 11 Exhibit 1, Invoice..... 88 12 Exhibit 2, List of Companies..... 120 13 Exhibit 3, Deposition Notice..... 134 14 Exhibit 4, Dr. Selikoff's Address..... 222 15 (Original Exhibits Returned to Mr. Shepard) 16 17 ** MARKED QUESTIONS ** 18 ** Page 205, Line 12 19 20 21 22 23 24	1 question that I've asked, I ask that you tell me 2 that and I'll either restate or rephrase the 3 question. Otherwise, I'll assume that you 4 understood the question as I asked it. Is that 5 fair? 6 A. Fair. 7 MR. LAVOIE: Stipulations? 8 MR. SHEPARD: Sure. Usual 9 stipulations? 10 MR. RUSSELL: Yes. 11 MR. SHEPARD: Fine. 12 Q. Could you state your full name for the 13 record. 14 A. Theodore, middle initial or full name? 15 Q. However you prefer. 16 A. H. Brodie, B-R-O-D-I-E. 17 Q. What is your residential address, Mr. 18 Brodie? 19 A. 26 King Caesar, C-A-E-S-A-R, Road, 20 Duxbury, Mass. 21 Q. What is your date of birth? 22 A. 12/16/29. 23 Q. Are you taking any medications today? 24 A. Yes.

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1 Q. Would any of those medications affect
2 your ability to remember or testify here today?
3 A. No.
4 Q. Have you ever been arrested?
5 A. No.
6 Q. How many depositions have you given
7 prior to today?
8 A. To the best of my recollection, I think
9 there have been two prior.
10 Q. And can you recall approximately when
11 those depositions took place?
12 A. I think it was about four years ago in
13 the Commonwealth of Mass case that Terry Dangel,
14 Attorney Dangel brought, and I believe there was
15 one; maybe, I'm guessing, really guessing at this,
16 10 years ago.
17 Q. Do you recall testifying in
18 approximately 1985 in a Commonwealth case --
19 1984, I'm sorry, with Terry Dangel. Would that
20 be about the one that was maybe 10 years ago?
21 A. That probably was that one. Yeah, that
22 wasn't the Commonwealth of Mass. case that I was
23 referring to on the later one.
24 Q. So, there was a Commonwealth of Mass.

10

1 case that you testified in approximately four
2 years ago?
3 A. I believe that's correct, isn't it?
4 Yeah. Counsel agrees with me.
5 MR. RUSSELL: Do you want to swear me
6 in?
7 Q. Did you testify in the Corcoran case?
8 A. I testified in the Corcoran case as
9 well, yes.
10 Q. Did you give a deposition in that case?
11 A. Don't remember whether I gave a
12 deposition in that or not.
13 Q. I'm going to hand you a document and
14 see if it refreshes your recollection as to
15 whether you gave a deposition in the Corcoran
16 case?
17 A. I guess I did.
18 Q. And do you recall an Attorney Paul
19 Dwyer asking you questions in that deposition?
20 Counsel for Owens-Corning?
21 A. Yes.
22 Q. How many times have you testified at
23 trial?
24 A. Oh, goodness. I really don't know. I

11

1 haven't kept track of it.
2 Q. Out of the number of times that you've
3 testified at trial, how many of them were in a
4 case involving asbestos?
5 A. I'm eliminating my collection cases, so
6 I would say the majority of my testimony at trial
7 have been on asbestos cases.
8 Q. Would you be able to approximate in the
9 last five years how many times you've testified
10 at trial in an asbestos case?
11 A. In the last five years, I don't believe
12 I've testified that often. I testified in the
13 Corcoran case. That one stands out in my mind,
14 but actually testifying in court, I think that's
15 the only one in the last five years.
16 Q. Can you summarize your education for me
17 beginning with high school?
18 A. Graduate of Taber Academy in Marion and
19 a graduate of Bowdoin College in Brunswick,
20 Maine, and one year at Saint Columba College just
21 outside of Dublin in Ireland.
22 Q. Was the one year at Saint Columbus
23 (sic) after you had graduated from Bowdoin or was
24 that part of your undergraduate degree?

12

1 A. That was between high school and
2 college, and it's Columba, spelled with an "A" on
3 the end. I was an exchange fellow with the
4 school.
5 Q. What degree, if any, did you obtain
6 from Bowdoin College?
7 A. BA.
8 Q. In what concentration?
9 A. History, government, and sociology.
10 Q. When were you first contacted about
11 this deposition?
12 A. A couple weeks ago.
13 Q. Who contacted you?
14 A. I think I received something in the
15 mail from the Coady office.
16 Q. Would that have been the summons and
17 complaint in the case, do you recall?
18 A. If that's the formal term, yes.
19 Q. Is that the first notice you had of the
20 existence of this lawsuit?
21 A. No, I had received maybe a week or two
22 before that -- we're speaking of the Ondik case?
23 Q. Correct, yes.
24 A. Something in the mail from -- I think

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1 it was something about that thick, and I don't
2 remember what its title was.

3 Q. Have you spoken to anyone regarding
4 your testimony in the deposition here today?

5 A. My counsel.

6 Q. Anyone other than counsel?

7 A. No.

8 Q. When is the first time you spoke with
9 counsel about your testimony in this deposition
10 today?

11 A. I would say a couple of weeks ago.

12 Q. Was that an in-person meeting or was
13 that by telephone or by some other means?

14 A. That was over the phone.

15 Q. How long did that conversation last?

16 MR. RUSSELL: I'm going to object to
17 that and instruct the witness not to answer
18 any questions relative to his conversations
19 with me.

20 MR. SHEPARD: Grounds?

21 MR. RUSSELL: Attorney-client.

22 Q. After that initial phone conversation,
23 have you had any other discussions with counsel
24 regarding your testimony in this deposition

15

1 shown any documents?

2 MR. RUSSELL: I object and instruct the
3 witness not to answer. I think you've gone
4 far enough into this.

5 Q. In that face-to-face meeting, were you
6 shown any documents in relation to your testimony
7 at this deposition today?

8 MR. RUSSELL: Again, I object and
9 instruct the witness not to answer.

10 Q. Have you looked at any documents in
11 preparation for your testimony at today's
12 deposition?

13 A. I looked at one or two.

14 Q. And can you tell me what those
15 documents are?

16 A. Copies of invoices from New England
17 Insulation Company.

18 Q. Were the one or two documents one or
19 two invoices?

20 A. They were both invoices, yes.

21 Q. How many pages did each document
22 consist of?

23 A. I don't know for sure, but I would
24 hazard it could have been two to four, something

14

1 today?

2 A. Yes, I have.

3 Q. On how many occasions?

4 A. Three, maybe four, something like that.
5 And let me correct a prior answer. I did talk to
6 a contact at Liberty Mutual relative to this
7 deposition as well. They are our insurer.

8 Q. What is that contact's name?

9 A. Don't remember. They keep changing all
10 the time.

11 Q. Does this person have a title, that
12 you're aware of?

13 A. He has a title. I'm not aware of it.

14 Q. Fair enough. The three or four other
15 occasions, other than the initial phone
16 conversation with counsel, were they in person,
17 by telephone, or by some other means?

18 A. We had a face-to-face meeting in my
19 office and there were several phone conversations
20 in addition to that.

21 Q. How many face-to-face meetings did you
22 have with counsel other than today?

23 A. I believe it was one.

24 Q. In that face-to-face meeting, were you

16

1 like that. Maybe five. I didn't count the
2 pages.

3 Q. Okay. How did you come to obtain the
4 invoices that you reviewed?

5 A. Counsel provided them to me.

6 Q. Can you tell me briefly what
7 information was contained on the invoices?

8 A. The amount of labor and materials that
9 were used to achieve -- to do certain work.

10 Q. What work was reflected in the
11 invoices?

12 A. I would have to look at the individual
13 invoices to be able to answer that correctly.

14 Q. Do you recall which jobsite the
15 invoices were regarding?

16 A. I believe it was at New Boston Station.

17 Q. Do you recall the dates of the
18 invoices?

19 A. No, I do not.

20 Q. Did the invoices reflect the use of any
21 asbestos-containing products?

22 A. They reflected the use of Kaylo,
23 calcium silicate material.

24 Q. Did you bring those documents with you

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17 1 today? 2 A. I didn't, no. 3 Q. Where are those documents now, to the 4 best of your knowledge? 5 A. I think my attorney has them. 6 Q. When is the last time you've seen those 7 documents? 8 A. I saw one of the documents 15 minutes 9 ago. 10 Q. And the other document, when is the 11 last time you saw it? 12 A. The other documents, 10 days ago, 13 roughly. I don't know. Two weeks. 14 Q. And did reviewing the documents help 15 refresh your recollection regarding work done at 16 the Boston Edison location? 17 A. Somewhat. 18 MR. SHEPARD: Counsel, do you have that 19 document with you? 20 MR. RUSSELL: I think I got it from 21 you, as a matter of fact. 22 MR. SHEPARD: Could I take a look at 23 it? 24 MR. RUSSELL: Sure.	19 1 testimony regarding his work history? 2 MR. RUSSELL: Regarding work history 3 and any eye history, yes, I am. 4 Q. Mr. Brodie, I'm just going to briefly 5 run through with you information I have from 6 prior depositions, and if you spot any 7 inaccuracies in it, I would ask that you let me 8 know. 9 You began with New England Insulation 10 in 1956? 11 A. Correct. 12 Q. You began in the production department? 13 A. Correct. 14 Q. In 1960, you moved to estimating and 15 sales? 16 A. Correct. 17 Q. In 1961 or '62, you became assistant 18 general manager? 19 A. Correct. 20 Q. Do you recall if it was '61 or '62? 21 A. No. 22 Q. 1969, became general manager and 23 president? 24 A. Correct.
18 1 MR. SHEPARD: We'll look at it later at 2 the break. Can you just keep it out? 3 MR. RUSSELL: Sure. 4 MR. SHEPARD: Thanks. 5 Q. Did you bring any other documents with 6 you today? 7 A. No. 8 Q. Have you provided any documents to 9 counsel in relation to the Ondik case? 10 A. No. 11 Q. Have you undertaken any search of New 12 England Insulation records to look for documents 13 that might be relevant to the Ondik case? 14 A. I have not. 15 Q. Have you been asked to do so? 16 A. Don't remember being asked to do so. 17 Q. Was anyone else present at the 18 face-to-face meeting you had with counsel? 19 A. I don't believe so. 20 MR. SHEPARD: John, we spoke a little 21 bit about his prior depositions and adopting 22 testimony in those depositions so we don't 23 have to belabor him today with questions 24 about them. Are you willing to adopt prior	20 1 Q. 1970, you purchased the company? 2 A. I think it was '71, actually. 3 Q. And after purchasing the company, your 4 title was president and CEO? 5 A. Correct. 6 Q. Can you tell me what your job duties 7 entailed while you worked doing sales for New 8 England Insulation? 9 A. Obviously making customer contact to be 10 placed on a bid list, to analyze what segments of 11 the industry we would be participating in or 12 trying to participate in, actually estimating the 13 projects, reading the specifications, working the 14 drawings, determining quantities, determining 15 amounts of labor and materials, pricing those and 16 quoting the projects, and then following up on 17 the quotations with the customers to obtain an 18 order. 19 Q. And did that job differ in any way from 20 being an estimator or were the two somehow 21 intertwined? 22 A. In my case they were intertwined. I 23 did both. 24 Q. Were there other employees of New

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1 England Insulation in the years 1960 and later
2 that were just sales people and not estimators?
3 A. There were. One.
4 Q. Do you remember that person's name?
5 A. John O'Brien. Deceased.
6 Q. And were there people in that time
7 frame who were employed just as estimators, but
8 not as sales people?
9 A. From when to when?
10 Q. We're talking when you began as an
11 estimator in 1960 forward.
12 A. From time to time, yes.
13 Q. When was New England Insulation
14 incorporated?
15 A. 1935. I believe it was January.
16 Q. And what is the basis of your knowledge
17 that it was incorporated in 1935?
18 A. The corporate document from the
19 Secretary of State of the Commonwealth of Mass.,
20 as well as information from the prior owner.
21 Q. And was that gained through
22 conversations with him?
23 A. Yes.
24 Q. What is his name?

22

1 A. Arthur E. Swanson.
2 Q. Was the company formed by Mr. Swanson?
3 A. It was formed by Mr. Swanson's father.
4 Q. What was Mr. Swanson's father's name?
5 A. Walter E. Swanson.
6 Q. Do you know at what point in time
7 Arthur E. Swanson took over ownership of the
8 company?
9 A. Upon his father's death, which was
10 approximately -- I think it was around 1950. Up
11 to that time, he had been a part owner.
12 Q. And from whom did you purchase the
13 company?
14 A. Arthur Swanson.
15 Q. Between 1935 and 1971, did anyone else
16 own the company other than Walter or Arthur
17 Swanson?
18 A. Emily P. Swanson, Arthur's wife, and
19 Judith Swanson, his daughter.
20 Q. When did Emily P. Swanson become or
21 gain an ownership interest in the company?
22 A. I would say 1935.
23 Q. And at some point in time, did her
24 ownership interest cease to exist?

23

1 A. It did.
2 Q. And when was that?
3 A. My best guess, at this point, was 1978,
4 '77, somewhere in there.
5 Q. Can you tell me the circumstances
6 regarding or surrounding the cessation of her
7 interest in the company?
8 A. She wanted to be cashed out.
9 Q. So, it wasn't her death?
10 A. No.
11 Q. When did Judith gain an ownership
12 interest in New England Insulation?
13 A. Approximately 1953 or 4.
14 Q. And at some point in time, did her
15 ownership interest cease to exist?
16 A. It did.
17 Q. And when was that?
18 A. I think it was '82 or '83. Somewhere
19 in there.
20 Q. Do you recall the circumstances of the
21 ending of her ownership interest?
22 A. She wanted to get cashed out.
23 Q. From 1982 to -- strike that.
24 In 1971 when you purchased the company

24

1 from Arthur, Emily and Judith retained ownership
2 interests; is that correct?
3 A. They did.
4 Q. No one else had any interest at that
5 time?
6 A. That's correct, other than myself.
7 Q. Other than yourself. After Judith
8 cashed out in 1982, who owned the company?
9 A. I did.
10 Q. Were there any other owners?
11 A. No.
12 Q. Since that time -- strike that.
13 Do you own the company today?
14 A. I do.
15 Q. Are there any other owners today?
16 A. There are not.
17 Q. Have there been any other owners
18 between '82 and the present?
19 A. There have not.
20 Q. What is the proper name of the company
21 today?
22 A. New England Insulation Co period.
23 Q. What was the name of the corporation
24 when it was formed in 1935?

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1 A. New England Insulation Co period.
2 Q. Has it been known by any other name
3 since 1935?
4 A. Not to my knowledge.
5 Q. Does any other corporation or business
6 entity have any ownership interest in New England
7 Insulation?
8 A. No.
9 Q. Are there any holding companies
10 presently?
11 A. No.
12 Q. Have any other corporations or holding
13 companies had an interest in New England
14 Insulation?
15 A. At one point, yes.
16 Q. Was that National Energy?
17 A. That was National Energy, Inc.
18 Q. When did National Energy, Inc. come to
19 have an interest in New England Insulation?
20 A. When I formed it.
21 Q. When did you form it?
22 A. Sometime in the early '80s, I believe.
23 Q. Does National Energy, Inc. exist today?
24 A. No.

26

1 Q. When did it cease to exist?
2 A. I think around 1986, '87.
3 Q. Between the formation of National
4 Energy, Inc. and the termination of National
5 Energy, Inc. in approximately 1986 or 1987, did
6 that holding company have an interest in any
7 other companies?
8 A. It did.
9 Q. What were those companies?
10 A. A.F. Underhill Co., Inc.
11 Q. Any others?
12 A. Reardon Underhill.
13 Q. How do you spell Reardon?
14 A. R-E-A-R-D-O-N. There was another one.
15 I'm trying to think of the name.
16 Q. Would Insulation Supply Corp. be one of
17 them?
18 A. Yes. That was basically located in
19 Louisville and Indianapolis.
20 Q. How about Insulation Specialties, was
21 that owned by National Energy?
22 A. I don't remember whether I included
23 that or not.
24 Q. What type of business was Insulation

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1 Supply Corp. in?
2 A. In the areas that it was working, it
3 was distributing materials, insulation materials.
4 Primarily, though, it was in the fabrication of
5 insulation materials to OEM accounts. Original
6 equipment manufacturers is OEM.
7 Q. Can you give me an example of an OEM
8 account that Insulation Supply Corp. has held?
9 A. General Electric. Basically the
10 companies in the Ohio, Kentucky, Indiana area
11 that were involved with the manufacture of
12 washing machines, refrigerators, et cetera.
13 Q. And were the insulation materials that
14 were distributed and fabricated for those type of
15 items, washing machines, those type of things?
16 A. Were they what?
17 Q. Were the insulation materials that
18 Insulation Supply Corp. distributed and
19 fabricated for washing machines and other types?
20 A. They were.
21 Q. Did Insulation Supply Corp. ever do
22 business in Massachusetts?
23 A. I don't think I changed the name of the
24 distribution facility here to Insulation Supply

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1 Corp., but I really don't remember. The primary
2 purpose of Insulation Supply was we purchased a
3 Chapter 7 company called LISCO, Louisville
4 Insulation Supply, and took over their business.
5 Q. Do you know if LISCO or Insulation
6 Supply Corp. ever did any work at any Boston
7 Edison location in Massachusetts?
8 A. They didn't do any work, no, absolutely
9 not.
10 Q. I'm sorry, go ahead.
11 A. Go ahead.
12 Q. Do you know if LISCO or Insulation
13 Supply Corp. ever sold any materials to any
14 Boston Edison location in Massachusetts?
15 A. LISCO didn't, and I don't believe
16 Insulation Supply did because I don't think I
17 changed the name here. I really don't remember
18 that.
19 Q. When you say you don't think you
20 changed the name here, was there a LISCO outfit
21 in the area when you purchased the company?
22 A. There was not.
23 Q. What facility existed in Massachusetts
24 for the distribution and fabrication of

29

1 insulation materials for OEM manufacturers?

2 A. None for OEM manufacturers.

3 Q. Did Insulation Supply Corp. have a
4 facility in Massachusetts, even though it wasn't
5 named Insulation Supply Corp.?

6 A. Not a separate -- it would not have had
7 a separate facility.

8 Q. What facility are you referring to when
9 you say you didn't change the name of it?

10 A. The facility would be the building, so
11 I'm not sure I understand your question.

12 Q. Well, I'm getting to Insulation Supply
13 Corp. I asked if they did business in
14 Massachusetts, and you said you don't think they
15 changed the name here.

16 A. I don't think I changed -- I don't
17 think I changed the name from New England
18 Insulation to Insulation Supply Corp.

19 Q. So, New England Insulation was the
20 company you're referring to as not having changed
21 the name?

22 A. That's correct.

23 Q. Did New England Insulation provide any
24 materials to OEM manufacturers, insulation

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1 Insulation, but by Mr. Swanson and myself in
2 1958, I believe.

3 Q. Does it exist today?

4 A. No, it does not.

5 Q. When did it cease to exist?

6 A. Mid '80s.

7 Q. Did the corporation go bankrupt?

8 A. No.

9 Q. Can you tell me the circumstances
10 surrounding the cessation of the corporation?

11 A. It's assets were combined with that of
12 Insulation Supply Corp. or Co. Insulation Supply
13 Co.

14 Q. Between 1958 and the mid 1980s, did
15 Insulation Specialties engage in any other
16 business activity other than fabrication of
17 fiberglass blankets for the metal building
18 industry?

19 A. Not during the time that it was owned
20 by New England Insulation.

21 Q. Did you purchase Insulation
22 Specialties? You mentioned you and Mr. Swanson.

23 A. Had originally formed Insulation
24 Specialties.

30

1 materials?

2 A. No, we did not.

3 Q. What type of business was Insulation
4 Specialties in?

5 A. They were fabricators of fiberglass
6 blanket with various facing materials exclusively
7 for the metal building industry.

8 Q. Can you give me an example of a use of
9 a fiberglass blanket in the metal building
10 industry?

11 A. Almost any metal building you look at
12 is insulated with that type of product on the
13 interior.

14 Q. Is that insulation on the walls of the
15 building?

16 A. It's on the walls and ceiling. You
17 wouldn't call it a ceiling, it's the roof.

18 Q. The walls and the roof?

19 A. The peak roof and the sides.

20 Q. When did Insulation Specialties come
21 into being?

22 A. In the time that you're talking about,
23 approximately '65, I would guess. It was
24 originally formed not as a part of New England

32

1 Q. Formed.

2 A. It was just closed out, liquidated by
3 Mr. Swanson and myself.

4 Q. In response to my question about other
5 activities other than fabrication of fiberglass
6 blankets, you said not in the time frame that it
7 was owned by New England Insulation. Can you
8 tell me what time frame that is?

9 A. New England Insulation formed
10 Insulation Specialties as a division of New
11 England Insulation upon the death of the person
12 who was the president of and the first of
13 Insulation Specialties.

14 Q. Do you recall what year that was?

15 A. 1962, I think.

16 Q. Between 1958 and 1962, do you know if
17 Insulation Specialties engaged in any other
18 business activity other than the fabrication of
19 fiberglass blankets?

20 A. I believe they did, but to the extent,
21 I'm not sure, and exactly what it was, I'm not
22 sure.

23 Q. Can you tell me today who would be the
24 person most knowledgeable regarding the work done

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1 by that company between 1958 and 1962?
2 A. Myself.
3 Q. Are there any business records that
4 still survive today regarding Insulation
5 Specialties' work between 1958 and '62?
6 A. Not to my knowledge.
7 Q. So, is the only source of information
8 about the work that they were doing between those
9 years your memory?
10 A. To the best of my knowledge, yes.
11 Q. Do you know if Insulation Specialties
12 ever did business with Boston Edison between 1958
13 and the mid 1980s?
14 A. From 1958?
15 Q. Correct.
16 A. I would not -- I don't remember any.
17 Let's put it that way. I know when it became
18 part of New England Insulation it didn't.
19 Whether it did prior to that, I don't know.
20 Q. That was my next question. Thank you.
21 Who was responsible for the day-to-day operation
22 of Insulation Specialties between 1958 and 1962?
23 A. Frank Morello, M-O-R-E-L-L-O.
24 Q. Was Mr. Morello related to you in any

34

1 way?
2 A. He was my stepfather.
3 Q. And is he still with us?
4 A. He died of mesothelioma in '62.
5 Q. Did Mr. Morello ever work for New
6 England Insulation?
7 A. No.
8 Q. And do you know if Mr. Morello
9 maintained any personal files or records of
10 Insulation Specialties?
11 A. He did not.
12 Q. What became of the business records of
13 Insulation Specialties in the mid '80s when the
14 corporation ceased to exist?
15 A. Off the top of my head, I don't know.
16 Q. Okay. When Insulation Specialties'
17 assets were combined with Insulation Supply
18 Corp., what became of the name Insulation
19 Specialties, if anything?
20 A. It just disappeared.
21 Q. What type of business was A.F.
22 Underhill Company, Inc. in?
23 A. A.F. Underhill is involved with
24 commercial building insulation, cold storage

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1 applications, and penetration seals of commercial
2 structures, and rehabbing of retail space
3 primarily for the supermarket industry.
4 Q. Who owns A.F. Underhill today?
5 A. I do.
6 Q. Have you always owned A.F. Underhill?
7 A. No, I purchased it in -- I think it was
8 '78.
9 Q. Who did you purchase it from?
10 A. Alfred -- I don't know if it was Albert
11 or Alfred. Al Wynot, W-Y-N-O-T.
12 Q. Do you know when A.F. Underhill was
13 incorporated, if ever?
14 A. It was incorporated by Mr. Underhill in
15 1935. It was a good year.
16 Q. What state was it incorporated in?
17 A. Massachusetts.
18 Q. And is Mr. Underhill Mr. A.F.
19 Underhill?
20 A. Andy Underhill is deceased. When I
21 purchased it from Mr. Wynot --
22 MR. RUSSELL: Why don't you wait for a
23 question.
24 A. Okay.

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1 Q. Do you know how Mr. Wynot came to own
2 the corporation?
3 A. He purchased it from Andy Underhill.
4 Q. Between 1935 and 1978, what type of
5 business was A.F. Underhill in?
6 A. Basically the same business it's in
7 today, except for the penetration seals. They
8 weren't doing it in those days.
9 Q. Has A.F. Underhill ever conducted any
10 business with Boston Edison?
11 A. Ever?
12 Q. Ever.
13 A. I think they insulated a building in a
14 transmission facility off of High Street once. I
15 think that's the only one I know of.
16 Q. Do you recall when that was?
17 A. Sometime in the '80s.
18 Q. Do you know if that job involved the
19 use of asbestos?
20 A. It did not. It was all fiberglass.
21 Q. When you purchased A.F. Underhill in
22 1978, who was responsible -- from the point of
23 purchase forward, who was responsible for the
24 day-to-day operation of the company?

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1 A. Mr. Wynot was still involved and a
2 gentleman by the name of Mr. Parker, William
3 Parker, was hired as the general manager.
4 Q. Did A.F. Underhill at any time from
5 1935 to the present sell or supply or work with
6 any asbestos-containing products?
7 A. Not to my knowledge. Even though the
8 name is the same, there were two different
9 companies. When I purchased it, I purchased it
10 as Newco and then bought the name A.F. Underhill.
11 Just so you know, there's a corporate split
12 there.
13 Q. So, you purchased Newco?
14 A. No, I formed Newco.
15 Q. You formed Newco?
16 A. And that purchased the assets of --
17 certain assets of A.F. Underhill, but not all.
18 Q. Did it purchase any liabilities of A.F.
19 Underhill?
20 A. It did not.
21 Q. After your purchase of certain assets,
22 including the name A.F. Underhill, what became of
23 the old A.F. Underhill, if you know?
24 A. Mr. Wynot owned the old A.F. Underhill,

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1 which he changed the name, and I don't recall the
2 name he changed it to, and it became a personal
3 holding company.
4 Q. Do you know if that personal holding
5 company is still in existence today?
6 A. I have no way of knowing. Mr. Wynot is
7 deceased.
8 Q. What type of business was or is Reardon
9 Underhill in?
10 A. Reardon Underhill was formed
11 specifically for three projects -- originally
12 formed for one project in Boston, to perform
13 their commercial building insulation at the
14 auditorium.
15 Q. Which auditorium?
16 A. The new one in -- you know, up near
17 Prudential Center.
18 Q. The Hynes?
19 A. The Hynes.
20 Q. Do you recall what year Reardon
21 Underhill was formed?
22 A. When the Hynes was built. There's so
23 many jobs, I can't remember exactly which year,
24 but that was built, what, in the early '80s, I

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1 think. Somewhere in there.
2 Q. Do you know if the work that Reardon
3 Underhill did insulating the Hynes involved the
4 use of any asbestos products?
5 A. It did not.
6 Q. What other projects was Reardon
7 Underhill involved in?
8 A. Boylston, I think it's 600 Boylston
9 Street. It's the building right across from the
10 New England Mutual.
11 Q. What work did Reardon Underhill do in
12 that building?
13 A. Commercial building insulation.
14 Q. Did that work involve the use of any
15 asbestos products?
16 A. It did not.
17 Q. Did any of the projects undertaken by
18 Reardon Underhill involve the use of any asbestos
19 products?
20 A. They did not.
21 Q. Who was responsible for the day-to-day
22 operation of Reardon Underhill from the date of
23 its formation forward?
24 A. Blaisdel Reardon, B-L-A-I-S-D-E-L.

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1 Q. When did Reardon Underhill cease to
2 exist, if ever?
3 A. Roughly sometime in the late '80s, '88,
4 '89, something like that. It was a joint
5 venture.
6 Q. Between yourself and Mr. Reardon?
7 A. That is correct.
8 Q. Between 1956 and 1958, were you
9 employed solely by New England Insulation?
10 A. Yes.
11 Q. Did you have any other job
12 responsibilities other than your work at New
13 England Insulation in that time frame?
14 A. No.
15 Q. And between 1958 and 1962, were you
16 involved in any way with the work -- with work at
17 Insulation Specialties?
18 A. I wasn't directly involved. I would go
19 over as an individual and use their equipment
20 from time to time.
21 Q. For what purpose?
22 A. If I wanted to -- they had some saws,
23 and if I wanted to cut something up, I would go
24 over there to cut it up.

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41 1 Q. So, between 1958 and 1962, did you have 2 any other job responsibilities other than your 3 work for New England Insulation and the 4 occasional visit to Insulation Specialties? 5 A. No. 6 Q. Have you ever had any duties or 7 responsibilities with regard to Insulation Supply 8 Corp.? 9 A. Not directly, no. 10 Q. Indirectly, what types of duties or 11 responsibilities have you had for Insulation 12 Supply Corp.? 13 A. As a CEO and concern with financing, et 14 cetera. Administrative, I guess would be the 15 best way to characterize it. 16 Q. So, you never had any day-to-day job 17 responsibilities for Insulation Supply Corp.? 18 A. No, I did not. 19 Q. Between 1962 and 1978, did you have any 20 job responsibilities, other than your work at New 21 England Insulation and what you've testified to 22 about -- strike that. 23 Between 1962 and 1978, can you tell me 24 what job responsibilities you held?	43 1 Q. Okay. Let's backtrack. Insulation 2 Specialties from 1962 to 1978, how much time as a 3 percentage were you spending for that company? 4 A. Maybe 1 percent. 5 Q. So, it was very little you were doing 6 for Insulation Specialties? 7 A. Hardly anything. There were other 8 people running it, including my then wife. 9 Q. What was your then wife's name? 10 A. Judith. 11 Q. And Judith was running it with Mr. 12 Morello? 13 A. Mr. Morello had died by then. 14 Q. When did Mr. Morello die? 15 A. '62 or '63. I don't have the exact 16 date now. 17 Q. Who ran it from '62 to '78? 18 A. When it was closed out, liquidated, 19 came in, Judith did. 20 Q. And did she own it up until -- did she 21 run it up until the mid '80s when its assets were 22 combined with Insulation Supply Corp.? 23 A. No, she ran it until, I think, '72, 24 somewhere in there. That's an approximation.
42 1 A. I held them at New England Insulation. 2 Q. Did you have any job responsibilities 3 in that time frame for Insulation Specialties? 4 A. Strictly administrative. 5 Q. Can you tell me in an average workweek 6 how much time would be devoted to Insulation 7 Specialties in that time frame? 8 A. Not really. 9 Q. Would it be more than an hour? 10 A. I couldn't. You know, it's part of 11 running a whole group of companies, and you can't 12 delineate I spend an hour on this and an hour on 13 that, et cetera. 14 Q. Are you able to, by way of percentage, 15 estimate how much time was spent for New England 16 Insulation versus Insulation Specialties? 17 A. Maybe 10, 15 percent, something like 18 that. 19 Q. Spent for Insulation Specialties? 20 A. Yes. Not Insulation Specialties. You 21 said Insulation Supply. 22 Q. Well, I was talking about Insulation 23 Specialties first. 24 A. I heard Insulation Supply.	44 1 Q. Who ran it between '72 and the mid 2 '80s? 3 A. I think it was under the direction of 4 Mr. Richard Watts and Mr. Antonino, Vincent 5 Antonino. 6 Q. Are either of those gentlemen with us 7 today? 8 A. Yes, they are. They're not with the 9 company, but they're with us. 10 Q. Are they with Insulation Supply Corp. 11 today? 12 A. As far as I know, they're unemployed. 13 Retired. 14 Q. As of today, what companies do you have 15 an ownership interest in? 16 A. New England Insulation and A.F. 17 Underhill. 18 Q. Any others? 19 A. No. 20 Q. Do you know who owns Insulation Supply 21 Corp. today? 22 A. It doesn't exist. 23 Q. When did it cease to exist? 24 A. That's hard to say.

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- 1 Q. Can you give me the decade?
2 A. I think it ceased to exist around 1980
3 -- wait a minute. Yeah, 1986.
4 Q. In the mid '80s, Insulation
5 Specialties' assets were combined with Insulation
6 Supply Corp. When Insulation Supply Corp. ceased
7 to exist somewhere around 1986, were their assets
8 combined with another company?
9 A. Yes.
10 Q. Which company?
11 A. National Energy Industries, Inc.
12 Q. Does that company exist today?
13 A. No.
14 Q. National Energy Industries, Inc. is
15 different from National Energy, Inc., correct?
16 A. That is correct.
17 Q. Who owned National Energy Industries,
18 Inc.?
19 A. My son, Glenn Brodie.
20 Q. When did that company cease to exist?
21 A. I believe it was 1991.
22 Q. And were that company's assets
23 transferred in any way to any other company?
24 A. No, they filed Chapter 11 or 7, I'm not

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- 1 sure which.
2 Q. They went bankrupt?
3 A. They went bankrupt.
4 Q. Has New England Insulation owned any
5 other companies other than the ones that you've
6 described here today?
7 A. I don't believe so.
8 Q. Is there anyone with New England
9 Insulation today whose work or association with
10 New England Insulation predates yours?
11 A. No.
12 Q. And is there anyone still living who
13 might have more knowledge than you regarding the
14 corporate history of New England Insulation?
15 A. No.
16 Q. Is there anyone still living who might
17 have more knowledge than you regarding the work
18 done by New England Insulation?
19 A. Not to my knowledge.
20 Q. How many people are employed by New
21 England Insulation today?
22 A. Approximately 120.
23 Q. Who is responsible today for keeping
24 the business records of New England Insulation?

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- 1 A. Richard Sheehan.
2 Q. Does he have a title with New England
3 Insulation?
4 A. Controller.
5 Q. How long has Mr. Sheehan been with the
6 company?
7 A. Approximately nine or 10 years.
8 Q. Prior to Mr. Sheehan, who was
9 responsible for keeping the business records at
10 New England Insulation?
11 A. Mr. Sheehan wasn't responsible for the
12 whole 10 years. Mr. Hagen, H-A-G-E-N, first name
13 Halvor, H-A-L-V-O-R.
14 Q. Can you tell me the time frame that Mr.
15 Halvor (sic) was responsible for keeping the
16 business records?
17 A. Mr. Hagen.
18 Q. Mr. Hagen. I'm sorry.
19 A. I have to stop to think. Probably
20 about 1994 to 19 -- midway through '98.
21 Q. And is that when Mr. Sheehan took over?
22 A. The keeping of the records, yes.
23 Q. Prior to Mr. Hagen, who was responsible
24 for the business records of the company?

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- 1 A. Kenneth Volkema, V-O-L-K-E-M-A.
2 Q. How long did he have that
3 responsibility?
4 A. About 15 or 20 years, something like
5 that.
6 Q. So, from somewhere between 1974 to '79
7 through '94?
8 A. Yes, probably to '92. There was a
9 period there where the people were there but
10 weren't doing the job. You know, it took a
11 couple of years to fill that responsibility.
12 Q. Okay. Prior to Mr. Volkema, who was
13 responsible for keeping the company's business
14 records?
15 A. I can picture him. I gotta dredge that
16 out of my memory. I need a little bit more time
17 for that one.
18 Q. If it pops into your head, just let me
19 know. Prior to that person, do you know who was
20 responsible?
21 A. An outside accountant, Joseph Luther,
22 L-U-T-H-E-R.
23 Q. Do you know the time frame that Mr.
24 Luther was responsible for keeping the business

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1 records of the company?
2 A. It goes back a long way.
3 Q. Does it predate your operation?
4 A. Oh, yeah.
5 Q. So, it predates 1956?
6 A. Yes.
7 Q. And the person who you can't remember,
8 do you know how long that person had the
9 responsibility?
10 A. Well, he was there when I came on board
11 in '56, and -- Roscoe, Mr. Roscoe. And he died,
12 I believe, in about 1970, late '60s. When he
13 left, Mr. Volkema came on board. It was a
14 seamless transition.
15 Q. So, when Mr. Roscoe passed away, Mr.
16 Volkema assumed responsibility for the business
17 records?
18 A. He did within a month or so.
19 Q. Okay. And were Mr. Luther and Mr.
20 Roscoe sort of co-responsible for any period of
21 time?
22 A. This predates '56, but my understanding
23 from Mr. Swanson was that he had a secretary or
24 himself or somebody was assigned to keep track of

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1 the labor and materials being used, and Mr.
2 Luther would come in once a month and do an
3 interim statement and then come in at the end of
4 the year and do a full statement. He was not a
5 CPA, but he was an accountant.
6 Q. In 1956 when you began with the
7 company, where were the business records kept?
8 A. 839 Albany Street, Boston.
9 Q. Do you know what records were
10 maintained by the company in 1956?
11 A. There were the account receivable
12 records, the account payable records, the payroll
13 records, the records of all of the projects that
14 were worked in terms of who had worked on them
15 and so on and so forth. Bank records, insurance
16 records, you know, the usual corporate records.
17 Q. And where at 839 Albany Street were
18 they kept?
19 A. In the building.
20 Q. Did they have a separate storage room
21 for them?
22 A. The current records were obviously in
23 the office, the older records were, I think,
24 stored in the basement.

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1 Q. What types -- you mentioned as one
2 category of records kept records of projects?
3 A. Yes.
4 Q. What type of information was kept in
5 regard to projects?
6 A. What our costs were relative to that
7 project, and it also contained the estimate on
8 which we sold the job, the brochures that were
9 used for submittals. Normal job records.
10 Q. Would those records reflect the
11 location of the job?
12 A. Yes.
13 Q. Would they reflect the customer?
14 A. Yes.
15 Q. Would they reflect the date the job was
16 done?
17 A. Yes.
18 Q. And would they reflect the work that
19 was done as part of the job?
20 A. Yes, and the specifications under which
21 we worked or under which they worked.
22 Q. Was there a document retention policy
23 in place that you know of in 1956 in terms of how
24 long records were maintained?

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1 A. No. This is a small company.
2 Q. So, pretty much everything was kept?
3 A. Yes.
4 Q. Where are the business records for the
5 company kept today?
6 A. Mostly in our office and there is a
7 separate storage facility in Canton where older
8 records are kept.
9 Q. How far back do the records in the
10 office go approximately?
11 A. We keep about two to three years' worth
12 in the office.
13 Q. And the storage facility in Canton, do
14 you know how old the records that are maintained
15 there are?
16 A. Well, there's two storage facilities.
17 The oldest goes back to approximately 1967.
18 There may be some in there from '65.
19 Q. And what became, if you know, of the
20 records from 1956 to 1965 or '67?
21 A. The records from 1935 to 1970 were --
22 no, 1967, were disposed of.
23 Q. When was that, do you know?
24 A. When we moved the company from Albany

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1 Street to Canton, which was July of 1970.

2 Q. During your time with the company,
3 since the move from 1970, have you seen any
4 records that predate 1967, perhaps 1965?

5 A. I have not.

6 Q. Have any records which predate 1965
7 been provided to you through the course of any of
8 the lawsuits your company has been involved in?

9 A. I don't remember whether they have or
10 not.

11 Q. The records from 1965 or '67 forward,
12 are those complete records of New England
13 Insulation?

14 A. I have no way of knowing that.

15 Q. Other than your personal knowledge, do
16 you have any way of verifying what work New
17 England Insulation may or may not have done prior
18 to 1965 or 1967?

19 A. No, I don't.

20 Q. Do you have or does New England
21 Insulation presently have any index or other type
22 of organization form for the older records, the
23 1967 forward records?

24 A. We don't have an index form. There is

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1 obtain a contract for insulation work?

2 A. In a thumbnail, we would become aware
3 of various projects that were proposed to be
4 built, either by requests from our customers or
5 through the Dodge Company listing of projects, or
6 on government projects we would read the -- what
7 would you call it? -- bid proposal forms that
8 were sent out by either the state or federal
9 government.

10 At that point we would decide whether
11 we wanted to estimate on that particular job or
12 not, depending upon what our workload was, what
13 the project was, and whether we had a good
14 opportunity of being included on the bid list and
15 a good opportunity of obtaining the contract.
16 Once we had done that, then we would do the
17 estimating and quote the project and then follow
18 up in a sales function.

19 Q. Were there jobs in which you had to be
20 invited, so to speak, to submit a bid?

21 A. Yes.

22 Q. And were there also jobs in which you
23 could submit a bid without being invited by the
24 premises' owners?

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1 a layout in the storage facility that was drawn
2 by Mr. Jonathan Braverman that used to be with
3 the firm of Rivkind, Baker & Golden, which
4 indicated where the records for various years
5 were.

6 Q. And who maintains that drawing?

7 A. There's only one copy of it and I have
8 it.

9 Q. And do you know if the storage facility
10 is still in the layout as was drawn up by Mr.
11 Braverman?

12 A. I don't have the slightest idea. I've
13 never been in it.

14 Q. Who would be the person most
15 knowledgeable regarding the layout of the older
16 documents as they exist today?

17 A. Possibly Mr. Sheehan.

18 Q. Is Mr. Sheehan still with the company?

19 A. Yes.

20 Q. He's the controller?

21 A. That is correct.

22 Q. When you began with the company in
23 1956, can you tell me the procedure by which New
24 England Insulation would seek to and ultimately

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1 A. That's correct.

2 Q. Can you tell me in a nutshell what type
3 of paperwork was generated in the bid procedure?

4 A. Well, it would depend upon the size of
5 the project, obviously. But do you want it by
6 inch or --

7 Q. Can you -- well, let's start with the
8 general categories of the types of documents that
9 would be created in a bid process.

10 A. Well, first of all, it would be the
11 takeoff of the physical quantities of whatever
12 the project was, and that could range from two
13 eight and a half by 11 sheets to as many as
14 several hundred.

15 Q. And a takeoff would be looking at
16 specifications and drawings and extrapolating the
17 materials that were required?

18 A. It would be measuring the amount of
19 pipe or duct work or equipment that was a part of
20 the project and recording them on these sheets.

21 Q. Okay. What other types of documents
22 were created?

23 A. Well, then you would summarize those on
24 to what is referred to as a setup sheet, and that

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1 would usually be one or two legal size -- well,
2 larger than legal size document, roughly that by
3 that, to give you an idea of size.

4 Q. 11 by 17, somewhere in there?

5 A. Yeah. Right.

6 Q. And what information was included on
7 the setup sheet?

8 A. It would be a summary of the quantities
9 and then reducing those and converting it to the
10 materials to be used and then the pricing of the
11 materials and the amount of labor that would be
12 used by segments, the total of the labor, costs
13 of the labor, and finally the suggested overhead
14 and profit. It would be a summary of all the
15 costs of the project.

16 Q. What other documents, other than the
17 takeoff and setup sheet, would be created in the
18 bid process?

19 A. That would be it. Well, you would have
20 a letter quoting the price.

21 Q. And would these materials be included
22 in the project records that were kept by the
23 company?

24 A. They would be on the estimate, so you

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1 the specification, and generally also the
2 application detail of how the materials were
3 going to be installed.

4 Q. Would the customer give notification in
5 writing of the acceptance of the submittals?

6 A. They would.

7 Q. If a customer rejected the submittals
8 of materials, what, if anything, would New
9 England Insulation do then?

10 A. We would talk with the design engineer,
11 who was usually a sub to the architect, and try
12 to determine exactly what it was that he was
13 trying to describe within his specification, and
14 we would then come up with materials that would
15 meet it or convince them that the materials we
16 had submitted did meet it.

17 Q. So, you were trying to figure out what
18 they wanted and trying to make it fit?

19 A. That's correct.

20 Q. After the submittals, were any
21 documents generated pursuant to a contract?

22 A. We would then make up a work order to
23 be used on the jobsite by the workmen, which
24 would take the data and information from the

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1 would have the record of what was estimated, yes.

2 Q. If you weren't awarded the bid, did you
3 keep these documents?

4 A. Generally, only for a year or two, in
5 case something went wrong on the project and we
6 were called in. The successful bidder went
7 bankrupt, went out of business, whatever, but
8 then we would dispose of them.

9 Q. Would you receive a written
10 notification as to whether your bid was accepted
11 or not, typically?

12 A. Typically, yes.

13 Q. Once a bid was accepted and New England
14 Insulation began work, what types of documents
15 would be generated pursuant to a contract?

16 A. Well, the first thing we would do would
17 be make submittals for the materials and the
18 applications of those materials to the customer
19 for approval.

20 Q. What types of information were you
21 conveying to the customer in the submittals of
22 materials?

23 A. Who the manufacturer was, the
24 thicknesses we were being -- submitted to meet

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1 submittals and convert that to what we expected
2 to be done in a lot more detail than was shown in
3 the specification.

4 Q. So, it was more specific instructions
5 to your workers about what to do on the job?

6 A. That's correct.

7 Q. Any other documents created other than
8 the work order and submittals once you had the
9 acceptance of a bid?

10 A. Well, then you would keep copies of the
11 invoices for material, we would keep copies of
12 the payroll, weekly payroll, signed time sheets,
13 and the accounting record for recording all of
14 the costs.

15 Q. What form was the --

16 A. And then copies of the bills that we
17 sent to the customer and copies of the checks we
18 received.

19 Q. What format was the accounting record
20 kept in?

21 A. It changed as the equipment used for
22 the accounting industry changed. It was done by
23 hand and then it was on a Burroughs machine and
24 then it was on an IBM computer.

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1 Q. Do you know approximately when the
2 accounting records switched from being done by
3 hand to the Burroughs machine?

4 A. About the time when Mr. Volkema came to
5 work. In fact, it was the time when Mr. Volkema
6 came to work, which was about the early '70s, I
7 think. Late 69 or 70, somewhere in there.

8 Q. Would all of the materials you've just
9 discussed be kept in the project records?

10 A. All -- they wouldn't be kept together.
11 I think the accounting records are in a separate
12 file, but the other -- the accounting records
13 would be the copies of the invoices, et cetera.
14 The job records, foreman reports, et cetera,
15 would be in a separate location in a storage
16 facility.

17 Q. Can you delineate for me exactly, of
18 the documents we've discussed, which ones were
19 kept as job records and which ones were kept as
20 accounting records?

21 A. I thought I just did.

22 Q. Well, you mentioned invoices, et
23 cetera. The accounting record, the one that was
24 done by hand until Mr. Volkema came, would that

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1 Q. So, what records exist are in one of
2 those two storage locations?

3 A. That is correct.

4 Q. And at the time those records were
5 created, the accounting records and job records,
6 to the best of your knowledge, were kept
7 separately?

8 A. When they were created, that is
9 correct.

10 Q. And you are not aware as to whether or
11 not they were then combined when they were placed
12 into storage?

13 A. That is correct.

14 Q. So, in storage they may either be
15 separate accounting and job records for each
16 project or they may be combined?

17 A. That is correct.

18 Q. The accounting records that are kept,
19 copies of bills sent to the customer, were they
20 included under that category?

21 A. Yeah.

22 Q. Copies of checks received from the
23 customer?

24 A. That would be accounting record.

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1 be kept with the accounting records?

2 A. That is the accounting record.

3 Q. Okay. When you're saying -- I've got
4 sort of a top heading of project records that
5 were maintained by New England Insulation after a
6 job was completed.

7 A. Uh-huh.

8 Q. Under that, if I understand your
9 testimony, you've got accounting records and job
10 records which are kept in separate places; is
11 that correct?

12 A. They are now and they were then, and I
13 believe -- I don't know whether they were put
14 together when they went into the storage facility
15 or not.

16 Q. When you say they are now, you mean
17 present practice of New England Insulation?

18 A. Right.

19 Q. So, between, say, '56 and '74, okay,
20 those records are no longer maintained on site by
21 -- what records you have are no longer maintained
22 on site by New England Insulation, correct?

23 A. They're not in our building, that is
24 correct.

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1 Q. How about the takeoff?

2 A. That would be a job record.

3 Q. Setup sheet?

4 A. Job.

5 Q. The letter quoting the price to the
6 customer?

7 A. Job.

8 Q. Written notification of acceptance or
9 rejection from the customer?

10 A. Both.

11 Q. Submittals?

12 A. Both.

13 Q. Acceptance or rejection notification of
14 the submittals?

15 A. Acceptance was both, rejection would
16 have been job record.

17 Q. Work order?

18 A. Job.

19 Q. Invoices for material?

20 A. Accounting.

21 Q. Weekly payroll and time sheets?

22 A. Accounting.

23 Q. Are there any other records that you
24 can think of right now other than the ones we've

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1 discussed that would have been created pursuant
2 to a contract between -- let's say between 1956
3 and '74?
4 A. I think that just about covers
5 everything.
6 Q. Okay. If you think of anything else,
7 let me know. Did New England Insulation, between
8 1956 and 1974, ever sell any insulation materials
9 to any other customers apart from a contract for
10 work to be done?
11 A. After 1970, yes. Prior to 1970, only
12 occasionally.
13 Q. And can you tell me prior to 1970 under
14 what circumstances New England Insulation would
15 sell materials apart from under a contract?
16 A. We, from time to time, would get a
17 phone call from one of our competitors who needed
18 material and he needed six feet of a certain size
19 or 12, comparably small quantities so he could
20 complete his job or not hold up somebody else,
21 and he called to see if we had it, and if we did,
22 we would sell it to him. Occasionally, that
23 could happen from -- could come from any source.
24 The homeowner might call and say I've got three

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1 feet in my basement that's freezing up, do you
2 have any pipecovering for it? And we would sell
3 him three to six feet or something. It was real
4 incidental stuff.
5 Q. Prior to 1970, did New England
6 Insulation maintain any store front or retail
7 location?
8 A. We did not.
9 Q. Did New England Insulation advertise
10 prior to 1970 for the sale of any insulation
11 materials?
12 A. Not to my knowledge.
13 Q. How is it that competitors or the
14 general public would come to know that they could
15 obtain materials from New England Insulation?
16 MR. LAVOIE: Objection.
17 MR. RUSSELL: Go ahead.
18 A. We had ads, I guess you call them ads,
19 in the Yellow Pages primarily as a contractor,
20 and so they would have picked our name up under
21 insulation in the Yellow Pages.
22 Q. Do you know if New England Insulation
23 has today copies of any Yellow Page ads prior to
24 1970?

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1 A. I would practically guarantee you we do
2 not.
3 Q. Okay. Who would be the person at New
4 England Insulation most knowledgeable about
5 whether those would exist?
6 A. Nobody.
7 Q. Nobody would be most knowledgeable?
8 A. Well, me.
9 Q. Other than you?
10 A. No.
11 Q. When a sale was made to a competitor or
12 some other third party, how would the purchaser
13 come to obtain the materials?
14 A. Quite often they would come in their
15 own vehicle.
16 Q. And pick them up?
17 A. Pick it up.
18 Q. Prior to 1970, did New England
19 Insulation deliver any materials that it had
20 sold, again, not under a contract?
21 A. It may have, but it would have been
22 rare.
23 Q. And after 1970, you've testified that
24 the sales were somehow greater than prior to

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1 1970? Again, sales apart from a contract.
2 A. That is correct.
3 Q. Can you tell me the circumstances under
4 which the sales increased?
5 A. We had moved from the converted stable
6 on Albany Street to a distribution building that
7 we built in Canton and decided to go into the
8 distribution business at that point.
9 Q. And from that point forward, did New
10 England Insulation maintain some sort of store
11 front or retail location?
12 A. No.
13 Q. Did they have an office in which
14 persons could walk off the street and purchase
15 materials?
16 A. No, not in Canton.
17 Q. In any location?
18 A. No.
19 Q. So, after 1970, how would customers
20 come to purchase materials apart from a contract
21 from New England Insulation?
22 A. We had salesmen who were out trying to
23 sell material.
24 Q. Who were they trying to sell the

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1 material to?

2 A. Our competitors, insulation contractors
3 who were not our competitors, metal building
4 erectors, industrial plants, hardware
5 distributors, plumbing and supply house
6 distributors, small plumbing and heating firms
7 that were installing their own. That's basically
8 it.

9 Q. And persons could still call up New
10 England Insulation and order materials?

11 A. Yes.

12 Q. You didn't have to get it from a
13 salesman after 1970?

14 A. Well --

15 Q. You didn't have to get it from an
16 outside salesman?

17 A. Right.

18 Q. You could call up the company directly?

19 A. You could.

20 Q. But that wasn't typical?

21 A. There was some of that, yes.

22 Q. Do you know if prior to 1970, New
23 England Insulation ever sold any materials, apart
24 from a contract, to any Boston Edison facility?

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1 we never had. We never did.

2 Q. That you had never worked?

3 A. Right.

4 Q. But on the topic of selling materials
5 to them, did that specifically come up?

6 A. As we were not in the distribution
7 business, I don't believe it did per se.

8 Q. Do you want to take a break?

9 A. I'm fine so far.

10 Q. Sir, can you tell me between 1970 and
11 1974 whether New England Insulation ever sold any
12 products, apart from a contract, to any Boston
13 Edison facility?

14 A. I don't believe we did.

15 Q. Prior to 1970, how were records kept
16 regarding sales to customers apart from
17 contracts?

18 A. They would have been in the Accounting
19 Department, and a copy of the sale document,
20 which would essentially be the bill, would be in
21 the Accounting Department.

22 Q. Between 1956 and 1970, who at New
23 England Insulation would have had as part of
24 their job duty receiving calls for products,

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1 A. Not to my knowledge.

2 Q. And do you have any knowledge as to
3 whether, prior to 1956, any such sales took
4 place?

5 A. From my conversations with Mr. Swanson,
6 I would say no.

7 Q. In your conversations with Mr. Swanson,
8 did you ask him specifically whether or not New
9 England Insulation ever sold material to Boston
10 Edison?

11 A. I don't believe we ever got in a
12 discussion where I'm asking specifically about
13 any particular customer. It would be a general
14 conversation about what the industry had done and
15 what it was doing and what New England's place in
16 it was.

17 Q. So, unless, as part of those
18 conversations the name of a particular customer
19 came up, you wouldn't have had occasion to ask
20 him specifics about any particular customer?

21 A. It only came up, specifically Boston
22 Edison, when we were -- I was looking at the
23 possibility of working in their plants, and he
24 said we never have, and I took him at his word,

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1 apart from a contract, and filling those orders?

2 A. Mr. Roscoe, until his death. What was
3 the outside date? '74?

4 Q. Right now it's '56 to '70.

5 A. And after he died, it would have been
6 Mr. Watts.

7 Q. Do you know if the part of the
8 documents that are kept in storage for New
9 England Insulation includes records of sales of
10 materials apart from contracts?

11 A. It would.

12 Q. If a customer purchased materials from
13 New England Insulation during the time period
14 that Mr. Roscoe was handling that responsibility,
15 how would, if at all, the information about what
16 customers were purchasing material make its way
17 to you?

18 A. Account receivable.

19 Q. Account receivable?

20 A. I receive a list of our account
21 receivable ever month, so I would know whether
22 they were on the account receivable listing or
23 not.

24 Q. Was an account receivable generated if

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- 1 the customer paid cash?
- 2 A. They rarely paid cash. No, if they
- 3 paid cash, it wouldn't have been, no.
- 4 Q. If a competitor purchased products, and
- 5 those products were, again, not under a contract,
- 6 independent sales, and those were to be used on a
- 7 jobsite, would the jobsite information be
- 8 reflected at all in New England Insulation's
- 9 account receivable records?
- 10 A. No.
- 11 Q. So, the only information New England
- 12 Insulation would keep as far as the outside sales
- 13 go would be the name of the customer?
- 14 A. That's correct.
- 15 Q. So, if a competitor, a competing
- 16 insulation contractor, purchased materials and
- 17 those materials were for use at a Boston Edison
- 18 location, you wouldn't have any reason to know
- 19 that?
- 20 A. No.
- 21 Q. Okay. Did New England Insulation ever
- 22 manufacture any insulation products?
- 23 A. No.
- 24 Q. Did New England Insulation ever have

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- 1 any relabeling or rebranding agreements with any
- 2 manufacturers?
- 3 A. No.
- 4 Q. Did New England Insulation ever sell
- 5 any insulation products that had the New England
- 6 Insulation name on them?
- 7 A. No.
- 8 Q. Between 1956 and 1974, were there any
- 9 customers that New England Insulation refused to
- 10 sell products to?
- 11 A. I'm sure there were, but I couldn't
- 12 tell you who they were.
- 13 Q. Can you tell me the circumstances under
- 14 which New England Insulation would refuse to sell
- 15 products?
- 16 A. Because they didn't pay their bills.
- 17 Q. Any other reasons?
- 18 A. No. I think any other reason would
- 19 have been illegal.
- 20 Q. Did New England Insulation ever sell or
- 21 supply any insulation materials that contained
- 22 asbestos?
- 23 A. We did.
- 24 Q. Do you know when New England Insulation

75

- 1 first sold or supplied an asbestos-containing
- 2 material?
- 3 A. Probably 1935.
- 4 Q. And when did New England Insulation
- 5 last sell an asbestos-containing product?
- 6 MR. RUSSELL: I object. That's a
- 7 different question. Your first question was
- 8 sold or supplied. Now you're asking sold.
- 9 Do you want sold or supplied?
- 10 MR. SHEPARD: Let me strike the
- 11 question.
- 12 Q. When did New England Insulation last
- 13 sell or supply an asbestos-containing product?
- 14 A. Essentially, we stopped purchasing any
- 15 asbestos-containing product in -- right around
- 16 1970. My best guess as to when our warehouse was
- 17 totally clear of any asbestos-containing material
- 18 is probably 1971. I do know that we took a lot
- 19 of asbestos-containing product and took it to the
- 20 dump in that period of '70, late '70.
- 21 Q. And why was it that you were dumping a
- 22 lot of asbestos-containing material between '70
- 23 and '71?
- 24 A. Because of our knowledge of the

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- 1 problems of asbestos.
- 2 Q. And you were, therefore, not selling
- 3 them or supplying them to customers?
- 4 A. And I didn't want it in the warehouse.
- 5 I didn't want the people in the warehouse to be
- 6 exposed.
- 7 Q. Can you tell me the first sale or
- 8 supply that you can recall of any product that
- 9 contained asbestos to any Boston Edison facility?
- 10 MR. LAVOIE: Objection.
- 11 MR. SHEPARD: Grounds?
- 12 MR. LAVOIE: It's a compound question.
- 13 I don't like the form of it.
- 14 MR. SHEPARD: You can answer the
- 15 question.
- 16 A. Sold or supplied?
- 17 Q. Right.
- 18 A. Repeat it again. I got lost in that.
- 19 Q. Sure. Let me break it down into two.
- 20 Can you tell me the first time you can recall
- 21 that New England Insulation sold any asbestos-
- 22 containing product to any Boston Edison location?
- 23 MR. RUSSELL: I'm going to object. I'm
- 24 going to ask what you mean by "sold." Do

77

1 you mean independent of a contract?

2 MR. SHEPARD: Yes.

3 A. To my knowledge, we didn't.

4 Q. Can you tell me the first time that New

5 England Insulation ever supplied, pursuant to a

6 contract, any asbestos-containing product to any

7 Boston Edison location?

8 A. For Unit 1 at New Boston. I believe

9 that was '65 or '66. I'm not sure of the date,

10 but I know the plant. I know the project.

11 Q. And to the best of your recollection,

12 that's the first involvement that New England

13 Insulation had with Boston Edison that involved

14 asbestos?

15 A. Containing materials, yes.

16 Q. To your knowledge, did New England

17 Insulation ever supply any nonasbestos-

18 containing material to Boston Edison prior to

19 that business transaction on Unit 1 in New

20 Boston?

21 A. Not to my knowledge.

22 Q. So, to the best of your knowledge, this

23 is the first business transaction New England

24 Insulation has had with Boston Edison?

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1 A. Unit 1 at New Boston, yes, that's

2 correct.

3 Q. Can you tell me what, if any, job

4 responsibilities New England Insulation had in

5 relation to Unit 1 at New Boston?

6 A. We were the insulation subcontractor to

7 Stone & Webster who was the designer and agent

8 for Boston Edison on that plant, on that unit.

9 Q. And pursuant to that contract, what

10 work did New England Insulation do?

11 A. We insulated the piping and equipment

12 portion of that unit. We did not insulate the

13 boiler or the stack.

14 Q. Were you ever present while New England

15 Insulation employees were working at Unit 1 in

16 New Boston?

17 A. Quite often.

18 Q. Can you tell me approximately how much

19 piping was insulated by New England Insulation?

20 A. All of the non-boiler-related piping.

21 The boiler-related piping only goes to the second

22 valve.

23 Q. Do you have any idea in lineal footage

24 how much pipe that involved?

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1 A. I knew you were going to ask that. I

2 don't remember the lineal footage.

3 Q. Would that information be reflected on

4 the job records?

5 A. Yes.

6 Q. Do you know how long New England

7 Insulation was working on Unit 1 at New Boston?

8 A. I think we did it in about nine or 10

9 months. That's to the best of my recollection.

10 Q. And how many days a week over that

11 nine- or 10-month span?

12 A. Five-day week.

13 Q. Do you know how large your crew was on

14 site?

15 A. I can guess.

16 Q. Well, I don't want you to guess. Maybe

17 estimate?

18 A. All right. I can estimate. That's the

19 same thing. I think we probably peaked at around

20 20 men.

21 Q. Was that five-day week continuous over

22 the nine- or 10-month span?

23 A. The five-day week was, yes.

24 Q. Okay. Were your employees who were at

80

1 Unit 1 in New Boston in any way identified --

2 strike that.

3 Did your employees on that job have

4 uniforms?

5 A. No.

6 Q. Did they have -- did they wear anything

7 that identified them as New England Insulation

8 employees?

9 A. No.

10 Q. When they arrived at the L Street

11 location for work, how did they gain access to

12 the building?

13 MR. LAVOIE: Objection.

14 A. They did not arrive at the L Street

15 location.

16 Q. Where did they arrive?

17 A. New Boston Station.

18 Q. And do you know where at New Boston

19 they had to report?

20 A. They went in through the main gate,

21 which is toward the waterway, that faces over

22 towards the old Army base.

23 Q. Pursuant to that project, would they

24 ever have, your men now employed at Unit 1 in New

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1 Boston, ever do any work in the L Street portion?
2 A. No.
3 Q. Other than Kaylo, which you've already
4 mentioned, what asbestos-containing products were
5 used by New England Insulation at New Boston Unit
6 1?
7 MR. HOLBROOK: Objection.
8 A. There would have been some cements.
9 That's basically it.
10 MR. SHEPARD: John, can I have that
11 document that you have?
12 MR. RUSSELL: Yes.
13 Q. What type of cements were used at New
14 Boston 1?
15 A. It would have been 66, Powerhouse. The
16 66 was Eagle-Picher. Powerhouse was BEH, Baldwin
17 Echert Hill. I think there was some Ruberoid 7K
18 asbestos. That would have been it. Probably
19 that's it. There may have been a few others, but
20 they would have been similar to those cements in
21 function. R&I may have had some in there. R&I
22 stands for Refractories & Insulation.
23 Q. Was Kaylo pipecovering and block used
24 on that job?

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1 A. It was.
2 Q. Other than the Kaylo and the cements
3 you've described, can you recall any other
4 asbestos-containing products that were used by
5 New England Insulation on that jobsite?
6 A. I don't believe there were any other.
7 Q. Was the Kaylo wrapped with cloth by New
8 England Insulation?
9 A. By New England Insulation? No.
10 Q. Was the Kaylo wrapped with cloth by any
11 other outfit?
12 A. On that job, no.
13 Q. Prior to 1974, did New England
14 Insulation work on any jobs where there was
15 another outfit responsible for wrapping pipe
16 insulation that was installed by New England
17 Insulation?
18 MR. LAKIN: Objection.
19 MR. RUSSELL: I object to that. You
20 can answer.
21 THE WITNESS: I can?
22 MR. RUSSELL: Yes, you can.
23 A. Not to my knowledge.
24 Q. How was the Kaylo pipe insulation

83

1 attached to the pipes at New Boston 1?
2 A. Depending upon the size of the pipe, it
3 was either secured with a 14 gauge annealed iron
4 wire or I think it was -- I'm trying to
5 remember -- half inch wide 0.015 stainless steel
6 banding, and the very large, the hot reheats,
7 were done with a three-quarter inch stainless
8 steel 0.015 banding.
9 Q. How were the joints -- strike that.
10 How were the elbows, bends in the pipe,
11 insulated on that project?
12 A. They were prefabricated by New England
13 Insulation and installed in segments that would
14 not weigh more than 80 pounds.
15 Q. Would cement be used on the elbows on
16 that job?
17 A. On that job, I don't believe -- no, we
18 didn't. The elbows, when they were
19 prefabricated, were smooth so that cement was not
20 required. That's on the elbows from four inch
21 and larger. Underneath four inch, cements would
22 have been used.
23 Q. And how were the elbows that were four
24 inch and larger attached to the pipe?

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1 A. Primarily with wires, and the real
2 large -- the same procedures that were used on
3 the pipe. Banding and wires, depending upon the
4 size.
5 Q. On that project, was the pipe required
6 to be in -- strike that.
7 Did you have to paint the pipe after
8 you were done insulating it?
9 A. We did not. After?
10 Q. After you were done insulating the
11 pipe.
12 A. We couldn't get at the pipe. Once it's
13 insulated, you can't get at it.
14 Q. After you were done insulating the
15 pipe, did you have to paint the pipe insulation?
16 A. No.
17 Q. Did any outfit, to your knowledge, have
18 to paint the pipe insulation after you were done
19 insulating it?
20 A. No.
21 Q. So, after you put on the pipe
22 insulation, was that what the finished product
23 looked like on New Boston 1?
24 A. No.

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1 Q. Can you tell me what happened after you
2 were finished with your job that altered the
3 appearance of the pipe insulation?

4 A. We weren't finished. After that point,
5 we installed the 0.016 aluminum over the pipe and
6 the fittings.

7 Q. How was the aluminum attached to the
8 pipecovering?

9 A. On that project I believe it was
10 banded. There are two ways of doing it, and the
11 other one is putting screws on the lath, but on
12 that project I think we did it with bands.

13 Q. After the pipecovering was jacketed
14 with aluminaum, was that finished as far as New
15 England Insulation was concerned?

16 A. That's correct.

17 Q. Did New England Insulation have any job
18 responsibilities on New Boston 2?

19 A. Yes, we did.

20 Q. Can you tell me what those were?

21 A. Exactly the same as what we had on Unit
22 1.

23 Q. Did the materials used on Unit 2 differ
24 in any way from the materials used on Unit 1?

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1 and setting up for Unit 2.

2 Q. Can you give me an example of what a
3 minor repair might entail?

4 A. Other workmen might have walked on the
5 aluminum, stepped on it, used it as a ladder, so
6 we would have to remove that aluminum and put new
7 aluminum on it.

8 Q. Would the minor repairs possibly entail
9 the repair of any of the pipecovering underneath
10 the aluminum?

11 MR. HUNT: Objection.

12 A. It could.

13 Q. Do you know whether the gentlemen who
14 remained on site between the construction of 1
15 and 2 ever did any repairs on any of the
16 pipecovering?

17 A. Yes, he did.

18 Q. And do you know the circumstances
19 involved in that repair? Strike that.

20 Why did he have to repair pipecovering?

21 A. Because Stone & Webster would have
22 requested us to perform a repair or a
23 modification to what had already been installed.

24 Q. How many repairs, to the best of your

86

1 A. They did not.

2 Q. Did the manner in which the work was
3 carried out differ in any way on Unit 2 as it was
4 on Unit 1?

5 A. It did not.

6 Q. How long was New England Insulation
7 involved in the New Boston 2 project?

8 A. Approximately the same length of time
9 as we were on Unit 1. Total duplicate.

10 Q. How soon after the completion of Unit 1
11 did New England Insulation begin working on Unit
12 2?

13 A. To the best of my memory, it was like
14 maybe a month, month and a half. We sort of went
15 from one right into the other. There was a
16 break, but I don't think it was very long.

17 Q. So, there was a period of time between
18 1 and 2 where there would be no New England
19 Insulation employees on site?

20 A. I wouldn't say no. I think our foreman
21 and one other were there throughout.

22 Q. And what would the purpose of the
23 foreman and one other person be there?

24 A. Probably for minor repairs to Unit 1

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1 recollection, were performed by the gentlemen who
2 remained on site between 1 and 2?

3 A. That's impossible for me to answer
4 that, really.

5 Q. Do you have a specific repair — strike
6 that.

7 Do you recall a specific instance in
8 which a repair was called for to the pipe
9 insulation in that time frame between New Boston
10 1 and 2?

11 A. Well, I have one, which is the invoice
12 that John Russell, Attorney Russell, showed me.

13 Q. I'm going to show you this document and
14 ask you if you recognize it?

15 MR. SHEPARD: John, do you mind if we
16 mark that?

17 MR. RUSSELL: No. That's fine.

18 A. I recognize it.

19
20 (Exhibit 1, Invoice, marked for
21 identification)

22
23 Q. Mr. Brodie, I ask you to look over
24 what's been marked as Exhibit 1 for the

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Theodore Brodie

Volume One

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1 deposition, and tell me what work is called for
2 under that document?

3 A. There was called for -- in the fuel oil
4 room, which is where the fuel oil heater was, the
5 fuel oil piping would run out of the room outside
6 to connect to the fuel oil tank. They asked us
7 to remove the insulation that had been installed.
8 An electrical contractor was brought in to put
9 electric heat tracing on the pipe, and then we
10 reinsulated the pipe and rejacketed the pipe.

11 Q. Do you know how long that repair,
12 removal, and reinstallation process took place?

13 A. In terms of number of days?

14 Q. Yes.

15 A. Probably two -- two days.

16 Q. And is that independent recollection or
17 is that from your observations on the document
18 that you're looking at?

19 A. That's from observation. We had 16
20 hours for the foreman, so that's two days, and
21 112 hours for the asbestos workers, so he would
22 have had, what, probably four guys working for
23 him.

24 Q. While New England Insulation was

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1 Q. On this particular project?

2 A. Those particular AFCOs, there was no
3 material. Obviously the material that was on
4 there was removed and put back on again.

5 Q. And is that an assumption or is that
6 your recollection of what took place on this job?

7 A. That's my interpretation of that
8 document.

9 Q. If this job that's reflected in Exhibit
10 1 involved the supply or sale of any insulation
11 material, would it be reflected in this document
12 or could it be in another document?

13 A. It would have been on that document.

14 Q. Based on your review of this document,
15 is this the complete record that New England
16 Insulation has as regard to this specific work?

17 A. It is.

18 Q. If this work involved the supply of
19 insulation, it would appear, you said, on an
20 authorized field change order; is that correct?

21 A. That is correct.

22 Q. If that authorized field change order
23 had either been misplaced or removed from this
24 record, is there anywhere else in this document

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1 working on New Boston 2, sir --

2 A. Yes.

3 Q. -- would there be occasion to have to
4 conduct, perform any repairs on New Boston 1?

5 A. There may have been, but I don't think
6 they were extensive.

7 Q. Okay. And I'm going to ask you to look
8 at this document one more time and tell me where,
9 if at all, in that document it indicates the
10 materials that were used with that job?

11 A. That would have been indicated on what
12 we call an AFCO, and that stands for an
13 Authorized Field Change Order, and the materials
14 used would be listed on that form.

15 Q. Is that form in Exhibit 1?

16 A. The form is here. I'm looking to see
17 if there are any materials listed. As far as
18 this particular form is concerned, it's relating
19 to labor only. On that particular invoice, I
20 should say.

21 Q. From your recollection, do you know if
22 any materials were supplied pursuant to the work
23 done on this project?

24 A. On that particular --

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1 where you would know that that document is
2 missing?

3 A. If it had been removed, I don't know
4 where it would have gone to, but it hasn't been
5 because the face bill refers to the AFCO numbers.

6 Q. Very good. So, the face bill here
7 refers to AFCO 1662, 1663, and 1664?

8 A. That's correct.

9 Q. So, based on your understanding of that
10 document, there would be no other AFCOs that
11 would have been billed to the company with regard
12 to that particular work?

13 A. That is correct.

14 Q. And had insulation materials been used
15 on that, is it, therefore, your testimony that it
16 would have been reflected in that face bill?

17 A. That is correct.

18 Q. Was there ever an occasion, while you
19 were employed at New England Insulation, that
20 they would have done work on a particular
21 project, for example, the one reflected in
22 Exhibit 1, where there would be two face bills,
23 one for the AFCOs with labor included on them and
24 another with AFCOs for materials?

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1 A. No, the material is always placed on
2 the same AFCO as the labor, and on this
3 particular one there are two face bills, there's
4 not just one, so that you have five more AFCOs,
5 so there are a total of eight AFCOs here.

6 Q. All of which include labor only?

7 A. Labor only.

8 Q. And it's your testimony that had
9 materials been supplied pursuant to that
10 particular job, the materials would have been
11 reflected on the same AFCOs as the labor?

12 A. Absolutely.

13 Q. Did New England Insulation do any
14 insulation work on any turbines at any Boston
15 Edison facilities prior to 1974?

16 A. Not to my knowledge.

17 Q. Sir, I'm going to show you a copy of
18 your deposition in 1984, and ask you to read from
19 the mark on Page 68 through the mark on Page 70.
20 Just read it to yourself, if you would.

21 A. I didn't remember we had Westinghouse.
22 I'm not positive. I think ACandS had the
23 Westinghouse turbines.

24 Q. Mr. Brodie, based on your review of the

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1 Q. Did the contract involve the insulation
2 of those items you just described?

3 A. Yes.

4 Q. And did that insulation contain
5 asbestos?

6 A. It would have been Kaylo.

7 Q. If the contract was with Westinghouse,
8 who was paying New England Insulation for that
9 work?

10 A. Westinghouse.

11 Q. Do you recall the contact person or
12 persons with Westinghouse on that job?

13 A. No.

14 Q. Do you recall -- strike that.

15 Did New England Insulation do any other
16 work for Westinghouse prior to 1974 that you
17 recall?

18 A. Other than at --

19 Q. Other than at New Boston.

20 A. Yes, we did.

21 Q. And at what locations did New England
22 Insulation do work for Westinghouse?

23 A. I'd have to think about that. I can't
24 identify the projects right now. I think one of

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1 excerpt from the deposition I just showed you, do
2 you recall whether or not New England Insulation
3 ever did any insulation work on a turbine at any
4 Boston Edison facility?

5 A. My deposition there indicates that I
6 said that we had worked for Westinghouse on the
7 turbine. I don't remember it now, but if I
8 remembered it in '84, my memory was probably much
9 better.

10 MR. LAVOIE: Could we have the
11 deposition transcript identified for the
12 rest of the group here?

13 MR. SHEPARD: It's his 1984 deposition,
14 June 22, 1984, in re: Mass. State Court
15 Asbestos Litigation.

16 MR. KIRBY: Pages?

17 MR. SHEPARD: Pages were 68 through 70.

18 Q. Do you recall, sir, sitting here today
19 what work New England Insulation would have done
20 pursuant to the contract with Westinghouse?

21 A. The turbine body and the small amount
22 of piping associated with it and the crossover
23 pipe between the high pressure and the low
24 pressure vent.

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1 them was down at Brayton Point, Units 1 and 2.
2 That's in Somerset, Mass.

3 MR. SHEPARD: John, do you want to take
4 a break here to get some food?

5 MR. RUSSELL: Sure.

6 (Lunch recess taken, 12:26-1:17)

7 MR. SHEPARD: Back on the record.

8 Q. Mr. Brodie, the turbine that New
9 England Insulation worked on for Westinghouse,
10 did that work involve the use of any asbestos-
11 containing cements, to your knowledge?

12 A. Probably.

13 Q. And would those cements have been the
14 same type that you described on the piping
15 contract for New Boston?

16 A. Yes.

17 Q. How long did New England Insulation
18 stay at the New Boston facility after 2 was
19 completed or -- strike that.

20 How long did New England Insulation
21 stay at the New Boston facility after their work
22 had been completed?

23 A. I would guess probably no more than
24 about a month.