

FILE NAME: Foseco (FOS)

DATE: 2013 July 23

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DOCUMENT DESCRIPTION: Legal – Deposition of Anthony Money

1 Plaintiffs: § PHILADELPHIA COUNTY
 2 BRENDA IHLENFELD, § COURT OF COMMON PLEAS
 Administrator of the Estate § CIVIL TRIAL DIVISION
 3 of WILLIAM IHLENFELD §
 § No. 0269
 4 v. §
 § JUNE TERM 2011
 5 Defendants: §
 CROWN CORK & SEAL COMPANY, § ASBESTOS LITIGATION
 6 INC., al. §
 ----- §

7
 8 ----- §
 Plaintiffs: § PHILADELPHIA COUNTY
 9 NANCY FORD, Administrator of § COURT OF COMMON PLEAS
 the Estate of EDWARD FORD § CIVIL TRIAL DIVISION
 10 §
 v. § No. 2965
 11 §
 Defendants: § MARCH TERM 2010
 12 CROWN CORK & SEAL COMPANY, §
 INC., § ASBESTOS LITIGATION
 13 ----- §

14 THE VIDEOTAPED DEPOSITION OF
 ANTHONY MONEY
 15 July 23rd, 2013

16 VIDEOTAPED ORAL DEPOSITION OF ANTHONY

17 MONEY, which was taken in the above-styled and
 18 numbered cause on the 23rd day of July, 2013,
 19 from 10:02 to 4:37 p.m., before Janice M. Koczek,
 20 CSR, CLR, in and for the State of Illinois,
 21 reported by machine shorthand, at the law offices
 22 of Hepler Broom LLC, 30 N. LaSalle Street,
 23 Suite 2900, Chicago, Illinois, pursuant to the
 24 Illinois Rules of Civil Procedure and the
 25 provisions stated on the record or attached hereto.

ANTHONY MONEY

Page 2 1 APPEARANCES 2 FOR THE PLAINTIFF: 3 MR. CHRIS PANATIER 4 SIMON GREENSTONE PANATIER BARTLETT, P.C. 5 3232 McKinney Avenue 6 Suite 610 7 Dallas, Texas 75204 8 214.276.7680 9 cpanatier@sbgblaw.com 10 FOR THE DEFENDANT FOSECO, INC.: 11 MR. GEORGE (BEAU) L. INABINET, JR. 12 MARON MARVEL BRADLEY & ANDERSON LLC 13 438 King Street 14 Suite 300 15 Charleston, South Carolina 29403 16 843.501.2701 17 bi@maronmarvel.com 18 -and- 19 MR. ERIC J. KADISH 20 MARON MARVEL BRADLEY & ANDERSON LLC 21 1717 Arch Street 22 Suite 3710 23 Philadelphia, Pennsylvania 19103 24 215.231.7100 25 ejk@maronmarvel.com FOR THE DEFENDANT MCCANN SHIELDS PAINT CO.: MR. GREGORY C. SCHEURING, Jr. MS. JONI MANGINO-INSUL (by teleconference) ZIMMER KUNZ PLLC 600 Grant Street 3300 U.S. Steel Tower Pittsburgh, Pennsylvania 15219-2702 412.281.8000 scheuring@zklaw.com	Page 4 1 INDEX 2 PAGE 3 Appearances.....2,3 4 ANTHONY MONEY 5 Examination by Mr. Panatier..... 8 6 Examination by Ms. Mullaney.....339 7 Signature and Changes.....344 8 Reporter's Certificate.....346 9 EXHIBITS 10 NUMBER DESCRIPTION PAGE 11 No. 1 CD produced by Foseco 32 12 No. 2 Plaintiffs' Notice to Take the 32 13 Oral & Videotaped Deposition of 14 Foseco, Inc. 15 No. 3 Letter dated May 27, 1963 47 16 Bates 1007 17 No. 4 Interoffice Correspondence dated 51 18 January 23, 1964 19 Bates 0284 20 No. 5 Letter dated April 3, 1964 from 55 21 The Cape Asbestos Company Limited 22 No. 6 Letter dated April 7, 1964 56 23 Bates 0312-1314 24 No. 7 Foseco International Limited 70 25 "Co-Ordinated Research & Development Progress Report, April 1965, Bates 0315-0344 No. 8 Research & Development Report 77 Silicosis and Asbestosis Hazards Associated with the Manufacture and Use of Profax, Bates 0350-0366 No. 9 Foseco Brochure 1965 109 21 Bates Kradel 0011-0048 No. 10 Foseco International Limited 120 22 Research & Development Report No. 235 The Use of Synthetic Inorganic Fibers to Replace Asbestos in Profax Bates FOS-AS 1897-1901 23 No. 11 Foseco Research Project - 134 24 Profax Development 25 Bates 0402-0403
Page 3 1 APPEARANCES 2 (Continued) 3 FOR THE DEFENDANT FERRO ENGINEERING: 4 MS. THERESA M. MULLANEY 5 KENT/MCBRIDE 6 1617 JFK Boulevard 7 Suite 1200 8 Philadelphia, Pennsylvania 19103 9 267.702.1718 10 tmullaney@kentmcbride.com 11 FOR THE DEFENDANT UNIVERSAL REFRACTORIES: 12 MR. JOHN J. DUGAN 13 SALMON RICCHEZZA SINGER & TURCHI, LLP 14 Tower Commons 15 123 Egg Harbor Road 16 Suite 406 17 Sewell, New Jersey 08080 18 856.842.0781 19 jdugan@srstlaw.com 20 FOR THE DEFENDANT JOHN CRANE, INC.: 21 MR. THOMAS J. BURNS 22 O'Connell, Tivin, Miller & Burns, LLC 23 135 South LaSalle Street 24 Suite 2300 25 Chicago, Illinois 60654 312.256.8800 tjb@otmbllaw.com FOR THE DEFENDANT VANDERBILT MINERALS: MR. JESSE SMITH (by teleconference) SWARTZ CAMPBELL 50 S. 16th Street 28th Floor Philadelphia, Pennsylvania 19102 215.299.4395 jsmith@swartzcampbell.com ALSO PRESENT: Cary Davidow, videographer.	Page 5 1 EXHIBITS 2 (Continued) 3 NUMBER DESCRIPTION PAGE 4 No. 12 Letter dated October 1, 1968 137 5 Bates 0490-0491 6 No. 13 Steelworks Bulletin, Asbestos 147 7 and Health - A Problem for 8 Europe, December 1969 9 Bates 0710-0715 10 No. 14 Report on Visit to Europe - 158 11 August 27-31, 1970, 12 Foseco International, Ltd. 13 Bates 0718-0723 14 No. 15 Inter-Company and Inter- 167 15 Departmental Correspondence, 16 February 24, 1971 17 Bates 0805 18 No. 16 Letter dated February 26, 1971 169 19 Bates 0800 20 No. 17 Letter dated June 7, 1971 172 21 Bates 0950, 0424 22 No. 18 Letter dated July 2, 1971 174 23 Bates 0951-0952 24 No. 19 Letter dated February 23, 1972 181 25 Bates 1042 No. 20 Letter dated March 24, 1972 183 Bates FOS-AS 2368 No. 21 Letter dated April 4, 1972 188 Subject: Toxicity of Profax, Proflex & Ferrux Ingredients 17 No. 22 Letter dated May 22, 1972 201 FOS-00 3651-3652 18 No. 23 Material Safety & Health Data Sheet 212 EP-3999A/Profax, Bates 1223-1224 19 No. 24 Material Safety & Health Data Sheet 218 Proflex (G-3), Bates 1073-1074 20 No. 25 Air Sampling Survey and Noise Survey 220 June 13, 1972, Bates 1157-1163 21 No. 26 Letter dated June 27, 1972 with 227 attached Asbestos Fiber and Mineral Dust Concentrations in Air Tests Conducted at Foseco, Incorporated 22 Bates 1128-1156 23 24 25

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PROCEEDINGS

THE VIDEOGRAPHER: Good morning.

Today's date is July 23rd, 2013. And the time is 10:02 a.m. This is the beginning of Tape No. 1 in the deposition of Anthony Money.

Will the court reporter swear in the witness, please.

(Witness sworn.)

ANTHONY MONEY,

called as a witness herein, having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. PANATIER:

Q. Sir, can you please go ahead and state your name for us.

A. My name is Anthony Money.

Q. All right. And, Mr. Money, do you understand that today you are the corporate representative for Fosco?

A. Yes.

Q. This is something you've done before, correct?

A. Yes.

Q. All right. And you understand that

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when you are the corporate representative for a company, that means you speak for the company, correct?

A. Correct.

Q. All right. You have been the person that has spoken for Fosco on about how many occasions, whether it be at deposition or at trial?

A. Probably a dozen.

Q. Okay. When was the last time you were deposed on behalf of Fosco?

A. I can't remember the date. It was several years ago.

Q. How long did you work for Fosco?

A. I joined Fosco in 1972, and I'm working for Fosco now.

Q. Okay. You're a current employee of Fosco, then?

A. Yes.

Q. Okay. Fosco is an international company, right?

A. Fosco, Inc., is not an international company, no.

Q. It is part of an international group of companies, correct?

Page 10 1 A. Time frame. When are you talking 2 about? What time frame? 3 Q. All right. Well, how about right 4 now? 5 A. It's not part of a group of 6 companies. 7 Q. Okay. Where is it based? 8 A. It's based in Charleston, South 9 Carolina. 10 Q. All right. When you started in 11 1972, what was your title? 12 A. Corporate controller. 13 Q. That's a -- basically a financial 14 role, correct? 15 A. That is correct. 16 Q. Have your responsibilities always 17 sort of been on the financial side? 18 A. Again, time frame. 19 Q. The time frame is always. If that's 20 not correct, then you can say that and I'll 21 rephrase it. 22 A. Let me answer it this way then. I 23 was financial until April 1974. And it's -- it 24 was still financial in '74. I took over some 25 of the treasury functions, which I'm -- that's	Page 12 1 health and safety? 2 A. No. 3 MR. SMITH: Excuse me. I apologize. 4 Is there any way we can get the microphone 5 a little closer to the witness? I'm having 6 trouble hearing his responses. 7 MR. PANATIER: It's pretty close. 8 Maybe you could just keep up your voice a 9 little bit. I'm going to move the phone a 10 little bit closer. 11 MR. SMITH: Thank you. I hear you 12 perfectly. The witness just seems a little 13 far away. 14 MR. PANATIER: My elocution is 15 flawless, so that's probably why. All 16 right. We'll try that. 17 MR. SMITH: And just can I get a 18 read-back of the last two answers with 19 respect to the questions of him being 20 involved in health and safety and the 21 subsequent question? 22 (The reporter read the record 23 as requested.) 24 MR. SMITH: Thank you. 25
Page 11 1 why I'm a bit hesitant. I'm assuming treasury, 2 in your determination, is finance. So I took 3 on that role in April 1974. 4 Q. All right. Have you ever done 5 anything outside of the financial side or 6 treasury side? 7 A. In 1980, I took over all the 8 corporate functions, like secretarial, things 9 like that. So my background or my experience 10 has been in financial with some administrative 11 functions. 12 Q. Okay. To this day, could you say 13 that your entire history at Foseco has been 14 financial and administrative? 15 A. Yes. 16 Q. Okay. Have you ever had any 17 responsibilities for health and safety? 18 A. No. 19 Q. Have you ever had any 20 responsibilities for regulatory compliance on 21 health and safety issues? 22 A. No. 23 Q. Have you ever been the person who 24 served as a liaison or someone who communicated 25 with any regulatory bodies on the issues of	Page 13 1 BY MR. PANATIER: 2 Q. Sir, starting in 1962, Foseco 3 developed some asbestos-containing insulating 4 boards commonly referred to as hot tops, 5 correct? 6 A. They started work on developing 7 those proj-, projects, yes. 8 Q. One of those boards that contained 9 asbestos was called Profax, and that was 10 available for commercial sale in 1965, correct? 11 A. Correct. 12 Q. There was another variation of that 13 board called Proflex which went available 14 commercially in 1969, right? 15 A. Correct. 16 Q. Okay. They were essentially the 17 same product but with just some different 18 attributes for different applications; is that 19 fair? 20 A. Correct. 21 Q. All right. Starting in 1965 when 22 the Profax insulating boards made by Foseco 23 became available commercially, is it fair to 24 say they contained approximately 4 percent 25 amosite asbestos and up to 4 percent

Page 14 1 chrysotile? 2 A. No. 3 Q. Okay. Will you go ahead and tell me 4 what the correct numbers are? 5 A. When we first developed the product 6 for commercial sale in 1965, it's my 7 understanding the percent of asbestos in was 8 1.75 percent, and it was amosite asbestos in 9 1965. 10 Q. So in 1965, the insulating board hot 11 tops, we'll just call them hot tops, were about 12 1 percent asbestos. When did they -- when did 13 that percentage change? 14 A. It, it changed -- I'm not sure of 15 the dates. I know that it was shortly after 16 1965. So I'm not sure of the, of the date. 17 And then it did increase to what you 18 asked me. It did increase to 4 percent, which 19 was -- it could have contained 4 percent 20 amosite, or it could have contained 3 percent 21 amosite and 1 percent chrysotile. 22 Q. Okay. So we'll get this straight 23 then. So immediately after Foseco started 24 selling hot tops, they were around 1 percent 25 asbestos?	Page 16 1 for each ingot mold and each customers' 2 location was different, but we, we used some 3 standard recipes. 4 Q. Generally speaking -- and I've 5 looked over your interrogatory answers. 6 Generally speaking, is it fair to say that the 7 majority or the, the main bulk of the hot tops 8 sold by Foseco contained -- over the years 9 contained approximately 4 percent amosite 10 asbestos and up to 1 percent chrysotile 11 asbestos? 12 MR. INABINET: Objection to form. 13 BY MR. PANATIER: 14 Q. Actually, let me rephrase it. 15 Is it fair to say that over the 16 years that Foseco was selling these boards from 17 '65 -- shortly after '65 until asbestos was 18 removed, the majority of those boards that were 19 sold contained either 4 percent amosite or 3 20 percent amosite and up to 1 percent chrysotile? 21 MR. INABINET: Excuse me, Chris. 22 We're taking about Profax? 23 MR. PANATIER: Uh-huh. 24 MR. INABINET: Okay. 25 THE WITNESS: It was 4 percent until
Page 15 1 A. 1.75. 2 Q. Okay. 1.75 asbestos. 3 Shortly after that, they increased 4 the amount of asbestos; is that right? 5 A. Correct. 6 Q. And they increased it to 7 approximately 4 percent amosite asbestos or 3 8 percent amosite asbestos and up to 1 percent 9 chrysotile asbestos; is that fair? 10 A. That's correct. 11 Q. All right. Are those percentages 12 you just gave me the ones that remained 13 basically consistent until asbestos was removed 14 from the product? 15 A. It remained consistent, but it 16 didn't go from 4 percent down to 0. We got 17 some recipes and products we could change 18 fairly, fairly quickly. But some we tried to 19 reduce the amount of asbestos. So it didn't go 20 from 4 to 0. It went from 4, to make an 21 example, to 2 to 0. 22 Q. Okay. There were various different 23 dimensions and recipes for different 24 applications, right, for different customers? 25 A. There was different specifications	Page 17 1 we started the asbestos-free, and then it 2 reduced from 4 percent down to 0 at the 3 end. So up until -- from '66 onwards, if 4 you like, until the asbestos-free program 5 kicked in, it was 4 percent. But then it 6 gradually came down in, in increments. 7 BY MR. PANATIER: 8 Q. When was the earliest time that 9 Foseco had a viable asbestos-free substitute 10 for asbestos-containing Profax? 11 A. It was different by account. The -- 12 we had some, some one or two products which we 13 went asbestos-free early, but it was only for 14 specific applications. But the first big 15 breakthrough for a major account was in 1973. 16 Q. Who was that? 17 A. It was Armco Middletown. 18 Q. And when you say there was a 19 breakthrough, what was that? 20 A. The, the practice that Armco 21 Middletown did is they let their ingot molds 22 cool down to ambient temperatures, which was a 23 different practice than other mills. And so 24 what we could do is we developed a product 25 which contained paper, which we could put in

Page 18 1 those ingot molds, and it would work. 2 But if and when we tried at other 3 accounts, because they didn't let the molds 4 cool down to ambient temperature, they were 5 hot, it burned the, the product. 6 Q. So depending on what a steel mill 7 did and how they made their steel, you may or 8 may not have been able to use an asbestos 9 substitute at different times? 10 A. That's correct. 11 Q. Okay. So how much of Foseco's total 12 business in terms of percentage revenue, if you 13 want to do it or some other way, were these 14 asbestos products? 15 A. I, I don't know. 16 Q. Was it a big part of Foseco's 17 business? Was it a small part? 18 A. Initially it was a small part, but 19 it grew as we, as we went through the '60s. 20 Q. All right. And by 19 -- let's say 21 by 1975, can you characterize for the jury 22 about how much of Foseco's business was made up 23 through the sale of these asbestos hot tops? 24 A. I, I don't know. I don't know. 25 Q. Okay. Is there anybody else who	Page 20 1 A. Sorry. Can you repeat the question 2 again? 3 Q. Sure. Does Foseco agree that all 4 forms of asbestos contain mesothelioma? 5 MR. KADISH: What time frame, Chris? 6 MR. PANATIER: Right now. 7 THE WITNESS: I, I think today that 8 Foseco is aware that asbestos potentially 9 could cause mesothelioma, yes. 10 BY MR. PANATIER: 11 Q. And does Foseco acknowledge that all 12 commercial forms of asbestos, chrysotile, 13 amosite, and crocidolite, as of today, they 14 admit that all forms cause mesothelioma? 15 A. That's the understanding today, 16 correct. 17 Q. Okay. Does Foseco acknowledge that 18 there is no known safe level of exposure to 19 asbestos? 20 A. I, I can't answer that. 21 Q. Is there someone at Foseco who is 22 better suited to answer that question? 23 A. The one that, that's -- that has -- 24 has the technical background is a Mr. Ted Jago, 25 who's the one that I believe would be the one
Page 19 1 knows better than you? 2 A. Probably not, no. 3 Q. And at that time you were on the 4 financial side and moving into treasury, right? 5 A. Correct. 6 Q. And you don't know the answer to 7 that question? 8 A. I don't know the dollar amount, no. 9 Q. Well, what about just a percentage 10 of total revenue? 11 A. Well, that's a different question, 12 because you're saying asbestos containing and 13 you mentioned '75, and we had a lot of accounts 14 converted over to asbestos-free in '75. So 15 it's difficult to answer. 16 Q. Okay. Well, let's go to this. 17 Total sales of Profax as of 1975. 18 A. I, I don't know. 19 Q. Okay. What about total sales of 20 Profax and Proflex as of 1975? Do you know 21 what percentage of the, of the company's total 22 sales came from those two products? 23 A. No. 24 Q. Does Foseco agree that all forms of 25 asbestos cause mesothelioma?	Page 21 1 more, more able to answer that question. 2 Q. Okay. Now, the company put you up 3 as the corporate representative for this 4 deposition. So you're the person I have to 5 ask. But if you don't know, that's fine. 6 So you're the company today. You 7 understand that, right? 8 A. Yes. 9 Q. Right. Okay. 10 So today, the company's answer is 11 you don't have an answer to that question as to 12 whether or not there's a known safe level of 13 exposure to asbestos; is that fair? 14 A. That's fair. 15 Q. Okay. Have you ever spoken with 16 Mr. Jago about that issue? 17 A. No. 18 Q. Okay. Prior to releasing asbestos 19 hot tops for sale to the public, did Foseco 20 conduct any tests on the ability of those 21 products in the foreseeable use to release 22 asbestos fibers? 23 A. There was a test done by Ted Jago, 24 and he took the, the Profax boards and subject 25 them -- subjected the boards to the same

Page 22 1 temperature conditions they would have 2 experienced in a steel mill. 3 And his conclusion after analyzing 4 the results is that the asbestos fiber had been 5 burnt up. There were no longer asbestos fiber. 6 Q. Okay. So I have a few follow-up 7 questions to that. First of all, he never 8 wrote down any of his results, to your 9 knowledge, right? 10 A. Not -- no, I don't think he did. 11 Q. He didn't have a report that showed 12 any of these results, correct? 13 A. No. And when I, I asked him that, 14 he said it wasn't a problem, so I didn't write 15 it down. 16 Q. Okay. You personally talked to 17 Mr. Jago, and he told you, "I happened to do a 18 study of the board to see how much asbestos was 19 left"? 20 A. Yes. 21 Q. And did he tell you what method of 22 microscopy he used to look at the results? 23 A. He just said he looked through a 24 microscope. 25 Q. So he didn't say, "I looked through	Page 24 1 Q. Did they do another test? 2 A. I don't know whether they did or 3 not. All I know is that I -- the only thing I, 4 I remember is that Jago told me that they 5 agreed with his findings. 6 Q. Okay. So you have no evidence that 7 Rutgers did another test, right? 8 A. Correct. 9 Q. You have no evidence that what 10 Mr. Jago said he did was ever independently 11 verified by anybody else, right? 12 A. I don't know what you mean. Wasn't 13 Rutgers independently verified? 14 Q. Only if they tested it. 15 A. Yeah, and I don't, I don't know 16 whether they did or not, whether it was a -- I 17 don't know. 18 Q. Okay. And my initial question was 19 did Foseco conduct any testing for the release 20 of asbestos in the foreseeable use of its 21 products before it offered them for sale. 22 Is it your testimony that Mr. Jago 23 did this test you're speaking about before it 24 ever went on sale commercially? 25 A. I don't know. Ted could not
Page 23 1 an electron microscope, did he"? 2 A. He may have done, but if he did, 3 he -- it wouldn't mean anything to me. 4 Q. Okay. Was he an electron 5 microscopist, to your knowledge? 6 A. No, I, I don't have an answer to 7 your question. 8 Q. Do you know whether or not you can 9 see all the asbestos fibers that are present 10 through a light microscope? 11 A. I don't know. 12 Q. The bottom line is we only have 13 Mr. Jago telling you or perhaps others that he 14 did this study and that it wasn't a problem, 15 right? 16 A. Well, we -- the second part to that 17 answer is that when Dr. Phoenix joined in '67 18 and he started looking at the, the products -- 19 he was in charge of steel mill -- he, he 20 obviously had a conversation with, with 21 Mr. Jago, and he got Mr. Jago to communicate 22 with Rutgers College to do, you know, to do a 23 similar test or to discuss the test with him. 24 And the response that came back is that they 25 agreed with Mr. Jago's findings.	Page 25 1 remember the exact date. He thought it was in 2 '65, but I don't know when the exact date was. 3 Q. Now -- okay. I'm sorry for 4 interrupting. 5 Now, in '65, the product only 6 contained 1.75 percent asbestos, right? 7 A. Yes. 8 Q. The company then doubled the amount 9 of asbestos shortly thereafter, correct? 10 A. Correct. 11 Q. Did Mr. Jago do another test? 12 A. No. 13 Q. Okay. You also said that Mr. Jago 14 did a test after to look for how much asbestos 15 was left after it was heated to the temperature 16 you would expect to see in steel, steel 17 applications, right? 18 A. Yes. 19 Q. Did he ever do a test, to your 20 knowledge, or anybody on behalf of Foseco of 21 the installation of the board into the steel 22 molds? 23 A. No. 24 Q. Okay. Did anyone ever do a test, to 25 your knowledge, of the blowout of the dust

Page 26 1 afterwards on a molding platform or a platform 2 where you would install -- 3 A. No. 4 Q. Okay. So to be, to be very clear, 5 the only testing that Foseco is aware of that 6 ever took place was something Mr. Jago did, 7 where he looked through some sort of microscope 8 at the remnants of Foseco hot tops after being 9 heated to steel mill temperatures before Foseco 10 doubled the amount of asbestos in the hot tops, 11 correct? 12 A. I'm not sure on that. I know you 13 said it was '65, and I don't know when. I said 14 earlier I don't know when they increased it to 15 4 percent. 16 Q. Well, earlier you told me when the 17 product first went on sale commercially it had 18 1.75 percent. 19 A. Correct. 20 Q. And it first went on sale 21 commercially in 1965, correct? 22 A. Correct. 23 Q. So more likely than not, if Mr. Jago 24 did the test in 1965, he was testing a Foseco 25 product that had 1.75 asbestos in it.	Page 28 1 A. Yes. 2 Q. You could pneumatic nail gun them, 3 right? 4 A. Yes. 5 Q. Okay. What other ways were there? 6 A. You could fit the boards in so that 7 they were an exact fit for the, for the top of 8 the ingot mold. 9 Q. So basically get them very precisely 10 measured so they would push in with enough 11 tension, I guess, along the walls to just hold 12 in there? 13 A. Correct. 14 Q. Okay. How was it done at Armco 15 Butler, to your knowledge? 16 A. I'm not sure. 17 Q. Okay. Do you know whether or not 18 they used the nail guns? 19 A. I don't know for sure, no. 20 Q. Did Foseco at any time go out and do 21 any air monitoring for the installation of 22 Foseco hot tops in steel mills? 23 A. No. 24 Q. Okay. 25 A. We -- the, the steel mills
Page 27 1 A. Unless they changed it over to 4 2 before, before the test. I'm not -- I don't 3 know. I know they initial set up, as I said, 4 at 1.75 and then changed it to 4. 5 Q. Okay. In the foreseeable use of 6 Foseco hot tops, there are really kind of two 7 general categories of use. There's the 8 installation and then there's the leftover 9 remnants of the hot top after the steel has 10 been poured and cooled somewhat, correct? 11 A. Correct. 12 Q. All right. And there are folks that 13 install the hot tops into the mold before the 14 steel is poured, right? 15 A. Yes. 16 Q. And then there are the folks, and it 17 may be the same folks, who take apart the mold 18 off of the ingot and then they get rid of the 19 leftover hot top material, correct? 20 A. Correct. 21 Q. Foseco understands that there were a 22 multitude of different ways to attach the hot 23 tops with inside the mold, correct? 24 A. Correct. 25 Q. You could clip them, right?	Page 29 1 themselves, they, they were big companies. And 2 they, they were monitoring or they knew what 3 every product that we shipped, what it 4 contained. And they would be the ones looking 5 at their, their safety of their employees. 6 Q. I'm just going to object to 7 nonresponsive. 8 My question was, did Foseco ever 9 conduct any air monitoring during the use of 10 their hot tops in a steel mill application? 11 A. No. 12 Q. Okay. Now, sir, do you agree that 13 it's a manufacturer's job to sell a product 14 that works and works safely? 15 A. Yes. 16 Q. Okay. Do you agree that a 17 manufacture has an obligation to provide 18 accurate safety information about its products? 19 A. Yes. 20 Q. Do you agree that people who use 21 those products rely upon the manufacturers to 22 provide accurate safety information about the 23 products? 24 A. Yes. 25 Q. Okay. As a general rule, does

Page 30 1 Foseco agree that to be useful safety 2 information has to be accurate? It can't be 3 misleading? 4 A. Well, the, the -- as I said earlier, 5 every product that we shipped to the steel 6 mill, they insisted on every supplier giving 7 them ingredients of every product. 8 Q. Okay. Here -- I'm sorry. My 9 question was this. For safety information to 10 be useful, right, so people can take 11 precautions or whatever they're going to do, it 12 has to be accurate safety information, right? 13 A. Yes. 14 Q. Okay. A manufacturer should never 15 mislead the public or anybody about the dangers 16 of its products, true? 17 A. Correct. 18 Q. And a manufacturer should never 19 downplay any hazards of its products, right? 20 A. Correct. 21 Q. Are you being compensated in 22 addition to your Foseco salary to do this work, 23 this litigation support work? 24 A. No. 25 Q. Okay. Do you own stock in Foseco?	Page 32 1 Q. Okay. Can you give me some general 2 categories just so we can have an understanding 3 of what you know? 4 A. It was, it was sales. It was 5 reports, whatever was pertinent to this 6 deposition. 7 Q. Did you read any of the depositions 8 taken in the Ford case? 9 A. Yes. 10 Q. Okay. Which depositions? 11 A. I read the Rausch deposition, I 12 think it was, and the Ihlenfeld. 13 Q. Okay. 14 MR. PANATIER: Just for the record, 15 we'll make this -- Foseco has produced a CD 16 of documents. That will be Exhibit 1. 17 MR. INABINET: Sure. 18 MR. PANATIER: And I'll make the 19 notice Exhibit 2. 20 (Money Deposition Exhibit Nos. 1 and 2 21 were marked for identification.) 22 BY MR. PANATIER: 23 Q. So, sir, do you agree -- does Foseco 24 agree -- when I say "you," I'm asking Foseco. 25 You know that.
Page 31 1 A. No. 2 Q. All right. You just have a salary? 3 A. Yes. 4 Q. Do you get a bonus? 5 A. No. 6 Q. Okay. What is your current salary? 7 MR. SMITH: Excuse me. I did not 8 get the answer to whether Mr. Money was 9 being compensated in addition to his Foseco 10 salary. 11 MR. PANATIER: The answer was "no." 12 MR. SMITH: Thank you. 13 BY PANATIER: 14 Q. What is your current salary? 15 A. My current salary is -- I'm not sure 16 exactly, but it's a little over \$300,000. 17 MR. KADISH: Per year? 18 THE WITNESS: Per year. 19 BY MR. PANATIER: 20 Q. Can you tell me what documents, if 21 any, you reviewed in preparation for this 22 deposition? 23 A. I don't understand specifically your 24 question. I reviewed documents that we were 25 asked to disclose.	Page 33 1 A. I understand. 2 Q. Does Foseco agree that to the extent 3 there is a substitute material for a hazardous 4 material that a company should always use the 5 substitute if they can? 6 A. Correct. 7 Q. Okay. And you gave us an example, I 8 think it was Armco Middletown, right? 9 A. Correct. 10 Q. Where, based on how they cooled down 11 their steel, Foseco was able to put paper in 12 instead of asbestos; is that right? 13 A. Correct. 14 Q. Okay. For the places that didn't 15 cool in the same way that Armco Middletown did, 16 and you were still selling asbestos-containing 17 hot tops to those other places, what ingredient 18 ultimately replaced asbestos for those 19 applications? 20 A. It was wollastonite. 21 Q. Wollastonite? 22 A. Correct. 23 Q. To your knowledge, does wollastonite 24 cause mesothelioma? 25 A. No, no.

Page 34 1 Q. No. Does wollastonite cause lung 2 fibrosis? 3 A. No. 4 Q. Where did they purchase the 5 wollastonite from? 6 A. It was Interpace. I think it was in 7 Canada. 8 Q. Wollastonite is a type of mineral, 9 correct? 10 A. Yes. 11 Q. In the years that Foseco used 12 wollastonite, did they ever have any health 13 complaints as far as lung disease goes? 14 A. No. 15 Q. All right. How long has 16 wollastonite been around? 17 A. I have no idea. 18 Q. I mean technically speaking, 19 probably millions of years since it's a rock, 20 right? 21 A. I, I don't know anything about 22 wollastonite. 23 Q. When was the first time that Foseco 24 tried out wollastonite as a substitute for 25 asbestos?	Page 36 1 than one team, right? 2 A. Right. 3 Q. So can you tell me the identity of 4 all the people on all these teams that were 5 looking for substitutes for asbestos prior to 6 '73? 7 A. No. I can give you some names, but 8 I don't know the names. We had our purchasing 9 agent, Frank Bilton, he was looking around to 10 see what available fibers were available. 11 We had Ted Jago looking at what 12 fibers would -- could be a possible 13 replacement. He got them in and tested them. 14 And he didn't test them all himself. He had -- 15 there was people underneath him, Don Butler, 16 for example. 17 Q. What did Don Butler do? 18 A. He was the, -- one of the technical 19 people working for Ted Jago. 20 Q. Frank Bilton was a purchasing agent? 21 A. Yes. 22 Q. So he purchased raw materials for 23 you guys? 24 A. Yes. 25 Q. He wasn't a scientist or anything?
Page 35 1 A. I believe it was around '73, '74. 2 Q. To your knowledge, was there 3 anything that prevented Foseco from 4 investigating wollastonite as a substitute for 5 asbestos prior to that? 6 A. Knowledge. It's -- we didn't know 7 about wollastonite. If we had known about 8 wollastonite, we'd have looked at it sooner. 9 Q. Can you tell us what efforts Foseco 10 undertook to investigate minerals like 11 wollastonite prior to '73? 12 A. Yeah. There was, there was teams 13 looking at whatever we could use as a 14 substitute. We looked at some mineral wool. 15 We looked at Headman fiber. We looked at 16 various ones trying to come up with an adequate 17 replacement for asbestos. 18 Q. You said there were teams looking 19 for replacement prior to '73. 20 A. Well, there was not one person is 21 what I was trying to say. 22 Q. Okay. Well, teams conveys more than 23 one person. 24 A. Correct. 25 Q. Can you -- and teams conveys more	Page 37 1 A. No. 2 Q. He didn't actually test the 3 products, right? 4 A. No. 5 Q. That was up to Ted Jago and Don 6 Butler? 7 A. Correct. 8 Q. Anybody else? 9 A. That's the ones I can remember. 10 Q. Okay. So as far as what Foseco can 11 testify to today, the teams that were looking 12 for asbestos replacements prior to '73 were 13 three people, right? 14 A. No, those three -- I could remember 15 three names, and maybe there was, there was 16 others. I'm not sure. 17 Q. Were you engaged in looking for 18 substitutes? 19 A. No. 20 Q. Do you know how long -- I'm sorry. 21 What was the company you said that 22 Foseco got the wollastonite from? 23 A. I believe it was Interpace. 24 Q. Interpace? 25 A. I-n-t-e-r-p-a- -- p-a-c-e. But

Page 38 1 it's 40 years ago now. 2 Q. Interpace? 3 A. So I'm trying to remember to answer 4 your question. 5 Q. That's okay. That's okay. 6 Do you know how long Interpace had 7 wollastonite for sale? 8 A. No. 9 Q. Sir, do you agree that from day one 10 of Foseco's sale of asbestos hot tops, Foseco 11 had an appreciation that asbestos could cause 12 asbestosis? 13 A. Yes. 14 Q. Okay. And do you agree that from 15 day one, when Foseco started to selling 16 asbestos containing hot tops, Foseco understood 17 that asbestos could cause fatal diseases? 18 A. I'm not sure how to answer your 19 question. 20 Q. Did Foseco understand that 21 asbestosis could be a fatal disease? 22 A. I didn't -- I'm not sure how to 23 answer that question. I honestly don't know. 24 Q. Okay. Do you agree that from day 25 one Foseco had an understanding that asbestosis	Page 40 1 A. Correct. 2 Q. Then it moved to amosite asbestos 3 for commercial sale? 4 A. Yes. 5 Q. Right. At that time, Foseco 6 understood crocidolite was implicated in 7 mesothelioma. What efforts did Foseco take to 8 make sure amosite would not be implicated in 9 mesothelioma? 10 A. There was a lot of publicity about 11 potential problems with asbestos. And so we, 12 we approached -- I say "we," the company -- 13 approached the suppliers of asbestos to say, 14 look, what, what is the situation. We're 15 hearing reports of maybe blue is associated 16 with cancer. Please tell us what it is. 17 It was part of our research on 18 trying to find out what these raw materials 19 were, what the potential problems were, and how 20 do we handle it. 21 And so we got letters back from the 22 companies saying that there has been some 23 reports linking blue to cancer, but the -- but 24 not the brown, not the, not the white was the 25 impression or understanding that Foseco had at
Page 39 1 was a preventable disease? 2 A. Yes, if -- when it was discussed, it 3 was discussed that there is a potential 4 asbestosis hazard if it wasn't bound correctly 5 in the product or wasn't bound. And I don't 6 know how, I don't know how to answer your 7 question technically. 8 Q. Foseco also had an understanding as 9 of day one, when they first started selling 10 asbestos-containing hot tops, that asbestos 11 could cause the disease mesothelioma, correct? 12 A. In, in the early development, there 13 was an understanding that exposure to the 14 crocidolite, blue asbestos, was getting 15 publicity that it had been or could be 16 associated with, with mesothelioma or, or 17 cancer at the time -- 18 Q. Okay. 19 A. -- if not handled correctly. 20 Q. Foseco understood that crocidolite 21 could cause mesothelioma as of '65, correct? 22 A. Correct. 23 Q. Crocidolite was actually a fiber 24 that Foseco had been using in the precommercial 25 hot tops it was making, right?	Page 41 1 the time. 2 And so when they, they found that 3 out, we said we should look at a replacement. 4 And that's when in '6- -- '64 they started 5 getting amosite and replacing that -- replacing 6 the blue with, with the brown. 7 Q. Did Foseco ask the amosite raw 8 asbestos sellers whether or not their fiber had 9 been implicated in any disease? 10 A. Yes. 11 Q. Okay. So -- and what did they tell 12 you? 13 A. That it was not a clear answer. 14 There was -- they were not -- they were not 15 saying there was any, any direct link at all. 16 They were, they were saying there was no 17 evidence to show that, which -- 18 Q. Was it surprising to Foseco that the 19 supplier of the amosite said our stuff is okay? 20 A. I'm not saying it's okay. I thought 21 you were asking me about lung cancer. 22 Q. Any type of lung disease. Okay? 23 A. Well, let me answer it this way. 24 The, the impression Foseco had at the time, 25 that if not handled correctly, there was a

Page 42 1 potential for lung cancer using the blue. But 2 there was a potential problem using the brown, 3 but it was asbestosis rather than cancer. 4 That's the impression that they had at the 5 time. 6 Q. All right. So let's go forward from 7 there. So Foseco moves to brown asbestos from 8 blue, right? 9 A. Yes. 10 Q. The brown was also cheaper, right? 11 A. I don't know. 12 Q. Okay. Well, we'll go through some 13 documents. I think that'll help flesh that 14 out. But let's go where, where you went, which 15 is Foseco moves to brown asbestos, and Foseco 16 understands at that point it's unclear whether 17 or not amosite is going to be implicated in 18 lung disease. 19 Is that fair? 20 A. It -- what we did is when we started 21 making the products, we, we were very proactive 22 in looking to see what potential problems were 23 and how do we handle the brown. I mentioned 24 earlier we went to the suppliers to ask for 25 their information that they had.	Page 44 1 disintegrates into just dust? 2 A. You mean in end use? 3 Q. In end use. 4 A. In end use, it, it's used and then 5 it, it drops away. But dust is not a word I'd 6 use. There's, there's some sintered products. 7 There's some -- I don't know how to best to 8 describe it. But dust would not be, not be one 9 of them. 10 Q. Is it fair to say that the hot tops 11 fairly easily disintegrate? 12 A. In, in use -- sorry. After use, 13 they would -- some would fall away and some 14 would be knocked off, blown off. But the, the 15 dust is one thing I'm a bit worried about 16 because -- in answering your question is 17 because we did not just supply hot tops, 18 boards, when we were doing this. 19 We also supplied a powder called 20 ferric which went on top of the steel in the 21 ingot mold. So when you're talking about dust, 22 if there was -- whatever was left at the end, 23 it was a combination of these sintered parts of 24 the board, plus any remains of the, the 25 exothermic powder we put on top.
Page 43 1 We also got the Industrial 2 Commission of Ohio to come in to look at our 3 way of manufacturing. And they came in in '63, 4 '65, '67, and they said there is a potential 5 for using -- potential dangers in using 6 asbestos, but the way you're handling it is no 7 risk. 8 Q. I've heard you say that -- or I've 9 seen you say that before. Do you have those 10 reports? 11 A. Yes. 12 Q. Okay. And what kind of -- what kind 13 of air monitoring did the Industrial Commission 14 of Ohio conduct? 15 A. I don't know the details of what 16 they did. 17 Q. Did you know whether or not they 18 found any exposure of the folks who were 19 working with asbestos? 20 A. I know that in the -- in the two -- 21 three reports that I said they were saying that 22 the way we were handling it was, was safe. 23 Q. Now, do you under -- do you have an 24 understanding that in the hot top process that 25 the product Foseco actually manufactured	Page 45 1 Q. Right. Of course, Foseco never 2 conducted any analysis of dust released from 3 just the boards that had been through the 4 process, correct? 5 A. That's correct. 6 Q. The only way to truly know whether 7 or not dust is released is to conduct 8 measurements. You agree with that, right? 9 A. Yes. 10 Q. Okay. That was not done? 11 A. It was not done by us. Whether it 12 was done by the steel mill, I don't know. 13 Q. It was not done by Foseco? 14 A. Correct. 15 Q. Foseco's facilities in the 1960s in 16 the U.S., where did it have facilities where it 17 made hot tops? 18 A. It made, it made hot tops in 19 Cleveland. We started in Chicago. I think it 20 was early '70s. And we made them in the 21 Mt. Braddock plant. 22 Q. Where is Mt. Braddock? 23 A. It's in Pennsylvania. 24 Q. Do you expect that Foseco at all 25 times would have been aware of and made

Page 46 1 attempts to diligently follow any national or 2 state regulations that applied to its business? 3 A. Yes. 4 Q. Whether that be in Ohio, in 5 Illinois, or Pennsylvania? 6 A. Yes. 7 Q. Does Foseco understand that Ohio had 8 a threshold limit value in place for asbestos 9 as of 1946? 10 A. No. 11 Q. Foseco doesn't know that? 12 A. I don't. I don't. 13 Q. Does Foseco understand that Illinois 14 recognized asbestosis as a compensable disease 15 in the 1930s? 16 A. I don't know that, no. I can't 17 answer. 18 Q. Does Foseco know that Pennsylvania 19 recognized asbestosis as a compensable disease 20 in the 1930s? 21 A. No. 22 Q. When did the Chicago plant open? 23 A. I'm trying to guess. I think it was 24 -- you -- your question was in the '60s, and I 25 think it opened around '71, but I'm, I'm not	Page 48 1 Manville to Foseco in -- on May 27th, 1963, 2 correct? 3 A. I was -- do you want me to read it 4 first or not? 5 Q. Sure. Of course. You can look at 6 it. 7 MR. INABINET: This is Exhibit 3? 8 MR. PANATIER: Yes. 9 (Witness reviewed document.) 10 THE WITNESS: Okay. 11 BY MR. PANATIER: 12 Q. All right. This is a communication 13 from Johns Manville to Foseco in Cleveland on 14 May 27th, 1963, correct? 15 A. Correct. 16 Q. And for each of these documents, 17 you're going to see I've highlighted portions 18 of them so we don't have to go through every 19 single thing. 20 But the highlighted portion says -- 21 JM says to Foseco, "We are aware of your 22 efforts to substitute Canadian chrysotile fiber 23 for this African blue and, in fact, we have 24 been in contact with our mines and your 25 Mr. E.J. Jago on the subject," correct?
Page 47 1 sure. 2 Q. Great. What I want to do is I have 3 documents -- I think you've seen every single 4 one of these before. These are Foseco 5 documents -- and kind of go through them in a 6 chronological fashion. So we can gain an 7 appreciation of how things evolved at the 8 company. 9 Are you okay to do that? 10 A. Yes. 11 Q. All right. If you see a document 12 that you have not seen before, will you let me 13 know? 14 A. Yes. 15 Q. Okay. And I'll mark each one of 16 these as we go through. The first one will be 17 Exhibit 3. 18 (Money Deposition Exhibit No. 3 19 was marked for identification.) 20 MR. INABINET: Do you have two 21 copies, Chris? 22 MR. PANATIER: No, I just have the 23 one. I'll hand it to you guys first. 24 BY MR. PANATIER: 25 Q. Sir, this is a letter from Johns	Page 49 1 A. Yes. 2 Q. Now, chrysotile -- we've been 3 talking about amosite, but chrysotile was also 4 a fiber used ultimately in the hot tops sold by 5 Foseco, correct? 6 A. Not in, not in totality. We used 7 some chrysotile along with the brown. 8 Q. Right. It was ultimately used not 9 by itself but with the amosite? 10 A. The, the -- when asked that 11 question, Jago said that the chrysotile would 12 not work on its own. 13 Q. So the answer to the question is it 14 was always used, to the extent it was used, in 15 conjunction with amosite? 16 A. Correct. 17 Q. And always in a smaller percentage? 18 A. Yes. 19 Q. Okay. Did -- what efforts did 20 Foseco conduct -- or I'm sorry. 21 What efforts did Foseco undertake to 22 investigate whether or not chrysotile was 23 implicated in the disease mesothelioma? 24 A. I believe we wrote letters to all 25 the asbestos suppliers.

Page 50 1 Q. Okay. So you asked the sellers of 2 the asbestos for information on the hazards? 3 A. Correct. And also, Jago did -- he 4 went to the library in Cleveland, for example, 5 like he did with every new raw material. He'd 6 do investigation on what the material was, 7 where the sources are, any, any dangers. He 8 did that on every raw material. 9 Q. Okay. How do you know that? 10 A. He told me. 11 Q. Okay. So Mr. Jago went and, I 12 assume, looked up chrysotile asbestos in the 13 medical library? 14 A. Yes. 15 Q. Okay. So we can assume that he 16 would have found anything that had been 17 published, right? 18 A. If it was in the library, yes. 19 Q. Right. Does Foseco understand that 20 in 1952 there were reports of mesothelioma out 21 of Canadian chrysotile miners? 22 A. No. 23 Q. You can set that aside, sir. 24 A. Where do you want me to -- 25 MR. INABINET: Over here. We'll	Page 52 1 crocidolite; is that fair? 2 A. RM265 is crocidolite. RM265A was 3 amosite. 4 Q. Got it. This is from Mr. Bilton, 5 who you mentioned, to F. Eastwood. Who is 6 Eastwood? 7 A. Fred Eastwood when, when I knew 8 Foseco, I joined Foseco, he was president or 9 past president. I'm guessing in '64 he was 10 president at that time. 11 Q. All right. So Mr. Bilton tells 12 Mr. Eastwood, the president, he says, "Paul 13 Norman told me last week that England have done 14 laboratory work with white asbestos and, like 15 ourselves, have found that it seems to perform 16 as well as the blue crocidolite asbestos we are 17 now buying." 18 So at least as of this report, they 19 found chrysotile to work just as well as 20 crocidolite, true? 21 A. That's what this memo says, but that 22 isn't what happened. 23 Q. Sir, when I ask you what a memo 24 says, that's what I'm asking you. Okay? 25 A. Fine.
Page 51 1 keep them out of the way. 2 MR. PANATIER: This will be Exhibit 3 4. 4 (Money Deposition Exhibit No. 4 5 was marked for identification.) 6 (Witness reviewed document.) 7 THE WITNESS: Okay. 8 BY MR. PANATIER: 9 Q. All right. This is a communication 10 within Foseco, right? 11 A. It, it was Foseco, yes, Foseco 12 group, yes. 13 Q. Right. This is an interoffice 14 correspondence, it says. 15 A. Yes. 16 Q. Right. Dated January 23, 1964, 17 correct? 18 A. Let me see. Yes. 19 Q. The subject is RM265. That is 20 chrysotile, correct? 21 A. No. 22 Q. Is it crocidolite? 23 A. It's crocidolite. 24 Q. Okay. I'm sorry. 25 So any time we see RM265, that's	Page 53 1 Q. Okay? 2 A. Yes. 3 Q. All right. "Like ourselves, they 4 have never used this material in products which 5 have gone into the fields." 6 My follow-up is, ultimately what 7 Foseco learned was you could not use chrysotile 8 alone as a replacement for the crocidolite, 9 correct? 10 A. Correct. 11 Q. Okay. "Paul believes that the only 12 reason blue asbestos is used is because 13 International happened to light upon it in the 14 initial stages." 15 What is International? 16 A. International is the, the Foseco 17 company in England called Foseco International. 18 Q. Okay. Did you ever work for them? 19 A. Yes. 20 Q. All right. When did you work for 21 Foseco International? 22 A. I joined Foseco International in 23 December 1970, and I was with them until I 24 joined Foseco, Inc., in October 1972. 25 Q. Okay. Foseco International is based

Page 54 1 in the U.K. Foseco, well, over here is based 2 over here, right? 3 A. Correct. 4 Q. And where was it based when you 5 joined it? 6 A. Which? FIL or Foseco, Inc.? 7 Q. Oh, I'm sorry. In '72. 8 A. In '72 it was in Cleveland. 9 Q. Sorry. Paul points out that 10 "although the blue asbestos has a highly -- 11 slightly higher tensile strength than the 12 white, this tensile strength is probably never 13 put to use in the function it performs in 14 Profax." 15 What is the function of the asbestos 16 in the hot tops? 17 A. It's basically twofold. It, it acts 18 as an insulating property in the finished 19 product. But also in the forming, you pulp -- 20 you pulp a recipe and then you put it through a 21 machine where it's made into a wet product. 22 And then it's put through an oven and dried. 23 And the problems with, with that 24 procedure is that sometimes when it comes out 25 of the, the, the, the machine, it goes on a	Page 56 1 then we'll talk about Exhibit 5 because I think 2 that's probably the best way to handle it. 3 (Money Deposition Exhibit No. 6 4 was marked for identification.) 5 MR. INABINET: Do you have the Cape 6 letter on the back of this? 7 MR. PANATIER: I don't have all the 8 letters -- yeah, yeah, that's what I've 9 got. You have that NAAC letter. 10 MR. INABINET: Okay. Okay. 11 BY MR. PANATIER: 12 Q. So, sir, there you've got a letter. 13 What is the date of that letter? 14 A. April 7th, 1964. 15 Q. That is from who? 16 A. It's from, it looks like, Cryor. 17 Q. And he's at NAAC? 18 A. Correct. 19 Q. That's North American Asbestos 20 Corporation, true? 21 A. Correct. 22 Q. To Foseco? 23 A. Correct. 24 Q. Is it addressed to anyone in 25 particular at Foseco?
Page 55 1 belt going through an oven. If the, if the 2 strength is not there, it disforms. It 3 collapses. And so what's important is getting 4 the fiber in there to keep it intact so it 5 stays the shape that will fit the steel mill 6 ingot mold when it comes out of the oven at the 7 other end. 8 MR. PANATIER: All right. This will 9 be Exhibit 5. 10 (Money Deposition Exhibit No. 5 11 was marked for identification.) 12 BY MR. PANATIER: 13 Q. Sir, this is a letter between North 14 American Asbestos Corporation and Cape Asbestos 15 Company, Limited, correct? 16 A. Correct. 17 Q. Now, North American Asbestos 18 Corporation was one of the suppliers to Foseco, 19 true? 20 A. Right. 21 Q. And before we get into the contents 22 of that letter, you are aware, of course, that 23 that letter ultimately got to Foseco, correct? 24 A. Correct. 25 Q. And we'll make that Exhibit 6. And	Page 57 1 A. Yes, Frank Bilton. 2 Q. All right. So this is the 3 purchasing agent we've been talking about? 4 A. Yes, it is. 5 Q. And he says that he is attaching the 6 letter from Cape Asbestos to NAAC, correct? 7 A. Correct. 8 Q. And that is Exhibit 5, which you 9 also have in front of you? 10 A. Yes. 11 Q. All right. So Foseco ultimately 12 received that letter from Cape, correct? 13 A. Yes, it did. 14 Q. All right. Let's go to Exhibit 5 15 then. Okay. This letter, which Foseco 16 ultimately saw, is between North American 17 Asbestos Corporation and Cape dated April 3rd, 18 1964, correct? 19 A. Correct. 20 Q. All right. Now, this is before -- 21 potentially a few months, potentially a year 22 before Foseco started selling asbestos hot tops 23 commercially, true? 24 A. Correct. 25 Q. Do you remember what month in '65

Page 58 1 they went available commercially? 2 A. I don't know. 3 Q. Okay. Okay. 4 It says, "Dear Bob." And it says -- 5 the subject is Foseco, Inc., health problems 6 concerns about asbestos. Correct? 7 A. I'm trying to read it. Concerning 8 -- I can't read it. Somebody else? 9 Q. Okay. 10 A. What does it say? 11 Q. Here. Go ahead and hand it to me. 12 I'll, I'll translate it for you. 13 It says, "Foseco, Inc., Health 14 Problems Concerning" something -- oh, blue 15 asbestos. 16 A. Yeah, that's what I thought it said. 17 But I didn't want to -- 18 Q. All right. So we can agree that's 19 what it says? 20 A. Yes. 21 Q. Okay. Let's go ahead and go to the 22 second paragraph. It says -- well, actually, 23 first paragraph for context. 24 "I am sorry to hear that you are 25 being troubled by questions relating to health	Page 60 1 cancer. There is no evidence to indicate that 2 there is a greater risk from any particular 3 form of asbestos." 4 First of all, I got through that. 5 But did I read it correctly? 6 A. Yes. 7 Q. Okay. What Cape is saying is that 8 it appears that the medical world has accepted 9 that lung cancer can be caused by asbestos and 10 there's -- there appears to be no difference 11 among the fiber types, correct? 12 A. That's, that's what he says, 13 correct. 14 Q. Okay. This would have been what 15 Foseco learned when it received this letter 16 just a little bit later, correct? 17 A. Yes correct. 18 Q. All right. "2, during recent years, 19 Dr. J.C. Wagner," or "Wagner," "claims to have 20 found approximately 100 cases of a distinctly 21 different kind of lung cancer called 22 mesothelioma among people in the North West 23 Cape in South Africa, most of whom have some 24 history of exposure to blue asbestos." 25 Did I read that right?
Page 59 1 problems and blue asbestos. We have already 2 said -- we have already had an inquiry from 3 Foseco here and I gather from our salespeople 4 that they, Foseco, will probably use amosite 5 anyway in view of the lower price of this 6 fiber." 7 So that's where I want to stop for 8 the first time. Amosite, at least according to 9 Cape Asbestos, who is selling the blue 10 asbestos, was cheaper at that time, correct? 11 A. It would appear so from this, yes. 12 Q. Okay. And what he's saying is I 13 think they're going to go with brown anyway 14 because it's cheaper. 15 A. That's what he says. 16 Q. Right. It says, "On the health side 17 the health situation is by no means 18 straightforward and is confused, confused by" 19 -- and I can't read that word. 20 A. I know. 21 Q. Something "of semi-scientific and 22 speculative theory. The facts may be 23 summarized as follows. 1, the medical world 24 now accepts -- now appears to accept that 25 exposure to asbestos increases the risk of lung	Page 61 1 A. Yes. 2 Q. Now, my question is, when Foseco got 3 this, do you know if Mr. Jago went up and 4 looked up Dr. Wagner's paper? 5 A. I don't know. 6 Q. Do you know if anybody did? 7 A. I don't know. 8 Q. Certainly to the extent that Cape 9 has already said there doesn't appear to be a 10 difference between the fibers, and there's a 11 doctor who reported 100 cases of this new 12 cancer called mesothelioma, certainly this 13 would be something that Foseco would want to 14 investigate, correct? 15 A. Yeah, and maybe they did. I have 16 not asked that specific question to Ted. 17 Q. All right. You would have expected 18 them, if they were responsible, to go ahead and 19 go pull that article, correct? 20 A. I don't know. I don't know. Maybe 21 they had it. Maybe they didn't. I have no 22 idea. 23 Q. We know you don't know, but you 24 would expect the responsible thing would be to 25 go and pull that information, correct?

Page 62 1 A. I don't know. 2 Q. You don't know what the responsible 3 thing to do is? 4 A. Well, it depends on where they were. 5 If they're looking at this and they were 6 looking at trying to find out is there any 7 potential greater risk using blue than the 8 other, the conclusion from, from these reports 9 is that although they can be adequately 10 controlled, there is a, there is a potential 11 exposure or hazard using blue asbestos. And 12 that's when they promptly started working on 13 replacing it with the brown. 14 Q. I'm just going to object 15 nonresponsive. 16 My question is do you agree it would 17 have been the responsible thing to go and find 18 this report? 19 A. Well, I don't know how to answer 20 that. It depends on what knowledge they had at 21 the time. 22 Q. Okay. So you have no evidence, 23 though, that anyone actually did go pull 24 Wagner's report. 25 A. I, I, I don't know whether we do or	Page 64 1 asbestos," correct? 2 A. Correct. 3 Q. Chrysotile asbestos was not in use 4 yet at Foseco as of this date, correct? 5 A. Correct. 6 Q. But they put it into use, correct? 7 A. They did put it in at a later date, 8 yes. 9 Q. Foseco was aware of -- let's look at 10 the Exhibit 6. What's the date of that? 11 A. It's April 7th, 1964. 12 Q. Okay. On April 7th, 1964, when 13 Foseco received a copy of this letter from Cape 14 Asbestos, Foseco would have been aware not only 15 that Dr. Wagner had found mesothelioma in 16 workers in Africa working with blue asbestos 17 and in workers in Great Britain who were 18 getting mesothelioma and exposed to asbestos, 19 but also they would have been aware of 20 mesothelioma associated with chrysotile 21 asbestos in the United States, true? 22 A. That's what this says, yes. 23 Q. Right. It was after that date that 24 Foseco determined they would put chrysotile 25 asbestos into its hot tops, true?
Page 63 1 not. If there is, I can't remember seeing it. 2 Q. Do you know whether the Wagner paper 3 actual addressed other forms of asbestos and 4 whether or not they can cause mesothelioma? 5 A. I don't know anything about it. 6 Q. Okay. Section 3, it says, "Dr. 7 Wagner has been working in Britain for the last 8 12 months, and he claims to have uncovered from 9 the records, going back over a considerable 10 number of years, a comparable number of cases 11 of mesothelioma here." 12 And he's talking about Great 13 Britain, correct? 14 A. Correct. 15 Q. So they're talking about Dr. 16 Wagner's work finding mesothelioma both in 17 Africa and in the U.K., true? 18 A. Will you repeat the question again? 19 Q. Sure. They're talking about 20 Wagner's work where he has find mesotheliomas 21 both in South Africa and in the U.K., correct? 22 A. Correct. 23 Q. "4, cases of mesothelioma have also 24 been claimed in the United States and Canada 25 associated with exposure to chrysotile	Page 65 1 A. No. 2 Q. They determined -- 3 A. At that time there was -- they 4 decided to start working on amosite. 5 Q. When did chrysotile first go into 6 the hot tops? 7 A. I can't remember the, the exact -- 8 it was -- I don't know the date. It was -- 9 Q. Was it after April 7th, 1964? 10 A. Oh, yes. 11 Q. That was the question. It was after 12 this date -- 13 A. Yes. 14 Q. -- that Foseco put chrysotile 15 asbestos into its hot tops, true? 16 A. Correct. 17 Q. Okay. We have to change the tape. 18 So let's just take a break. Five minutes. 19 THE VIDEOGRAPHER: This is the end 20 of Tape No. 1 in the deposition of Anthony 21 Money. The time is approximately 10:58 22 p.m. [sic] We are going off the video 23 record. 24 (Discussion off the record.) 25 THE VIDEOGRAPHER: Going back on the

Page 66 1 video record at 11:06 a.m. at the beginning 2 of Tape No. 2 in the deposition of Anthony 3 Money. 4 BY MR. PANATIER: 5 Q. Sir, the last paragraph says -- or 6 the last subsection says, "So far as I'm aware, 7 no cases of mesothelioma have been definitely 8 associated with amosite." Correct? 9 A. That's correct. 10 Q. What follow-up did Foseco do to look 11 into that? 12 A. I think they took that as, as 13 another indication that there was potential 14 problems handling asbestos if not handled 15 correctly. But the, the consensus they got 16 from this is that there is a potentially higher 17 risk using blue than the other. And that's one 18 of the reasons that because of comments like 19 this that they decided we, we should switch 20 over to amosite from the blue. 21 Q. So sort of in just regular people 22 terms, there was an understanding that there 23 was a risk from all of the fibers but that blue 24 probably had the highest risk. Is that fair? 25 A. It's, it's -- that, that was the	Page 68 1 BY MR. PANATIER: 2 Q. And then it says, "It is accepted 3 that precautions must be taken, and I suggest 4 that so far as Foseco are concerned, all that 5 is necessary -- all that is necessary to advise 6 them is that precautions should be taken to 7 prevent inhalation of asbestos dust by their 8 operatives." 9 Did I read that right? 10 A. Yes. 11 Q. Okay. So this letter, which Foseco 12 got four days later in 1964, April of 1964, to 13 summarize, it reaffirms that there is an 14 asbestosis hazard with all fibers, correct? 15 A. Correct. 16 Q. It says that there have been reports 17 of mesothelioma in the United States, in the 18 U.K., and in South Africa with relation to blue 19 and white chrysotile asbestos, correct? 20 A. It -- I know it says that for blue. 21 I'm not sure whether all three it says 22 chrysotile asbestos but it, it does. 23 Q. It specifies -- to be clear, it 24 specifies the United States -- or actually, 25 "Cases have been claimed in the United States
Page 67 1 consensus from these letters, that's correct. 2 Q. Now, if you go to the next 3 paragraph, it says, "These then are the facts. 4 And I should add that I have heard absolutely 5 nothing of skin cancer in this connection. The 6 problem is an extension of the old asbestosis 7 hazard. And although we are concerned with the 8 extension into these more obtruse diseases and 9 anxious to establish the facts, where is -- 10 there is clearly no reason for alarm when one 11 considers the very small incidence of this 12 affliction in relation to the enormous number 13 of people who handle asbestos of all kinds." 14 So we could stop there. What, what 15 this guy at least is saying is we shouldn't 16 really be concerned because these new cancers 17 we're talking about, they don't affect that 18 many people, right? 19 MR. KADISH: I object to the 20 summarization. I think it speaks for 21 itself. 22 MR. PANATIER: He can agree or 23 disagree with it. 24 THE WITNESS: That's what it says, 25 yeah.	Page 69 1 and Canada associated with exposure to 2 chrysotile asbestos," right? 3 A. Correct. Yes. 4 Q. All three fiber types are implicated 5 in some sort of asbestos-related disease; is 6 that correct? 7 A. That's correct. 8 Q. Right. Do you know whether or not 9 Foseco agreed with this, this man from Cape 10 Asbestos, that there was no reason for alarm 11 for these new cancers because there were so few 12 people who were affected by them? 13 A. Well, there would be concern. And 14 as always, you, you make decisions on knowledge 15 available at the time. And I think that Foseco 16 did a diligent effort in trying to find out 17 what was asbestos, what are the different 18 types, and what were the potential hazards. 19 And this was just another piece in there. 20 Q. Right. 21 A. But I'm telling you the thing that 22 came from this is there was potential more 23 danger from using the blue. So they started 24 working very quickly on using the brown. 25 Q. What they knew about brown and then

Page 70 1 subsequently white, when they added white to 2 it, was they knew brown was an asbestosis 3 hazard already and they knew that white was 4 implicated in mesothelioma already, correct? 5 A. That's what it shows on, on this 6 report. 7 Q. And when Foseco got it, they read 8 the report, right? 9 A. Yes. 10 Q. They didn't ignore this, did they? 11 A. No, no. 12 Q. Okay. You can set that aside, sir. 13 A. Both of them? 14 Q. Yes, sir. 15 Next is Exhibit 7. 16 (Money Deposition Exhibit No. 7 17 was marked for identification.) 18 MR. INABINET: I'm assuming you have 19 provisions highlighted or -- 20 MR. PANATIER: I do. I'll tell him 21 to turn to various pages. We're not going 22 to be talking about that whole document. 23 MR. INABINET: Okay. 24 MR. PANATIER: I think it starts on 25 page 14 or 15. That's where the	Page 72 1 please, to page -- actually, to the next page, 2 the very next page. It just says this is a 3 monthly report from April of 1965 from the 4 technical division, right? 5 A. It does. 6 Q. Okay. And then there's -- 7 basically, when they did these reports, they 8 went through various different issues that they 9 were having of a technical nature; is that 10 fair? 11 A. Correct. 12 Q. All right. If you'll turn, please, 13 to page 15, there's a section there called 14 "Development Foseco (FS) Limited silica and 15 asbestos-free Profax." 16 Do you see that? 17 A. Yes. 18 Q. The second paragraph there says, 19 "Two samples of mineral wool have been 20 evaluated as possible replacements for 21 asbestos." And it has a -- I guess a 22 designation mark there. Is that LM319? 23 A. It looks like it is. 24 Q. Okay. "Mixes have been made using 25 both samples and concentrations of 1, 2, and 3
Page 71 1 highlighted stuff is. 2 BY MR. PANATIER: 3 Q. Take a second to look at that, sir. 4 A. Do you want me to -- 5 MR. INABINET: Do you want to point 6 him to -- 7 BY MR. PANATIER: 8 Q. I want you to just get familiar with 9 what it is. 10 A. Yes. 11 Q. Okay. And then I'll point up to the 12 right page. 13 A. That's fine. 14 Q. This is a, this is a document. It 15 says "Coordinated Research and Development 16 Progress Report, Confidential, Foseco 17 International, Limited, April 1965." 18 So this is the U.K. Foseco, right? 19 A. Correct. 20 Q. All right. And you were not yet 21 working there as of '65, true? 22 A. Correct. 23 Q. You started in '70? 24 A. Correct. 25 Q. All right. Sir, if you will turn,	Page 73 1 percent. Green strengths increased with the 2 higher percentages, but there was little 3 difference in transverse strength. Only one 4 sample has been tried on Amitec, which gave 5 superior results to that from current Profax. 6 Four samples of chopped fiberglass have been 7 received and have been successfully evaluated. 8 However, these materials are very much more 9 expensive than asbestos." 10 So I have a few follow-up questions. 11 First, this is 1965, so this is the year that 12 Foseco started selling asbestos hot tops 13 commercially, correct? 14 A. Correct. 15 Q. April 1965 is also the same month, 16 if I'm looking at this right -- no. This is 17 one year after the previous memos we looked at 18 from Cape Asbestos? 19 A. That's correct. 20 Q. All right. Why were they looking 21 for substitutes for asbestos? 22 A. It's, it's part of -- part of the 23 research and development that always things are 24 looked at to try to improve the quality, 25 performance of all products. This, this one

Page 74 1 is, is being used because -- probably just 2 because of that. 3 Q. So it had nothing to do with 4 potential health hazards? 5 A. It, it could have. But this, this 6 is just the technical report associated with 7 that. This technical report would not address 8 health and safety. It doesn't mean to say 9 health and safety wasn't looked at. It means 10 that this report was just from the technical 11 aspects of the, of the manufacture and use of 12 the product. 13 Q. So the technical -- when we consider 14 a technical report like this, their only 15 concern is does the material work. 16 A. On, on this research report, they 17 would be looking at technical aspects of the, 18 of the forming of the product and the 19 performance of the product. 20 Q. Okay. So when we talk about 21 technical aspects, that's forming and 22 performance of the product? 23 A. Correct. 24 Q. Okay. But these technical guys also 25 bring up something that I would call price, how	Page 76 1 up. 2 Q. It is true that the only drawback 3 cited by the technical group here is that 4 fiberglass costs more than asbestos, correct? 5 A. That's what it says here, but we 6 tried both of them and we could not get them to 7 work. 8 Q. I'm just going to object to 9 nonresponsive. 10 A. Okay. 11 Q. My question is the only thing cited 12 here as a drawback of the fiberglass by the 13 technical group is that it costs -- it is very 14 much more expensive than asbestos, correct? 15 A. That's what -- 16 MR. KADISH: Objection; form; asked 17 and answered. 18 THE WITNESS: Yes. 19 BY MR. PANATIER: 20 Q. I'm sorry, sir. Could you go ahead 21 and state your answer? 22 A. Yes, that's what it says. 23 Q. So you can set that exhibit aside. 24 The next exhibit will be Exhibit 8. 25
Page 75 1 much the material costs, right? 2 A. Well, well, price we always looked 3 at. But it wasn't the driving force on product 4 performance. It was what's the best products 5 to use in the application necessary. 6 Q. Is it Foseco's testimony that price 7 was not a consideration in what materials to 8 use? 9 A. If there was an adequate 10 substitution which was cheaper without causing 11 any extra risk or complications on sourcing it, 12 bagging it, getting it shipped, use in the 13 plant, they would consider it, yes. 14 Q. Sir, the second paragraph that's 15 highlighted there says, "Four samples of 16 chopped fiberglass have been received and have 17 been successfully evaluated." 18 So that means the fiberglass was 19 successful, correct? 20 A. It was in the, in the, in the 21 research and development lab. But we tried -- 22 it mentions also mineral wool and chopped 23 fiber -- we tried them, and they just clumped 24 together when we tried to make the wet shape 25 before going into the oven. It would not hold	Page 77 1 (Money Deposition Exhibit No. 8 2 was marked for identification.) 3 BY MR. PANATIER: 4 Q. Sir, Exhibit 8 is a research and 5 development report. It is from C. Washburn, 6 and this is dated on the third page August 7 10th, 1965, correct? 8 A. Correct. 9 Q. You have seen this on many 10 occasions, right? 11 A. Yes. 12 Q. All right. You are familiar with 13 this, true? 14 A. Yes. 15 Q. Was C. Washburn an employee of 16 Foseco? 17 A. He was an employee of Foseco 18 International. 19 Q. So he was one of the guys in the 20 U.K., correct? 21 A. Correct. 22 Q. Now, let me ask you this. Did the 23 U.K. guys share this type of information with 24 the U.S. guys? 25 A. Yes.

Page 78 1 Q. And, in fact, there's typically a 2 distribution list. I don't know if there's one 3 on here, but this did go to the U.S.? 4 A. It did. 5 Q. Okay. So you're on the right page. 6 This says, "Research and development report to 7 number 8.2, highly confidential, August 10th, 8 1965, silicosis and asbestosis hazards 9 associated with the manufacture and use of 10 Profax." 11 Did I read that right? 12 A. Yes. 13 Q. Now, it says highly confidential. 14 Why is it highly confidential? 15 A. All technical reports were highly 16 confidential because of the potential for any 17 competitors getting ahold of our recipes, 18 technologies, raw materials, et cetera. 19 Q. Well, this is a report about health 20 hazards having to do with two ingredients, 21 right? 22 A. All I'm telling you, all research 23 and development reports had to be marked 24 strictly confidential. That was the policy 25 that the group had.	Page 80 1 the very first page of the substance is there 2 are health hazards associated with Profax 10, 3 right? 4 A. Correct. 5 Q. Profax 10 is just one of the hot 6 tops made by Foseco, right? 7 A. It's one of the recipes. 8 Q. Okay. As of August 1965, did Foseco 9 place a warning on its hot tops that says there 10 are health hazards pertaining to the use of 11 this material? 12 A. No. 13 Q. Okay. Go ahead and turn to the page 14 marked 3, "Introduction." It says, "Inquiries 15 are being received from customers regarding the 16 possibility of illness among steelworker -- 17 steelworks personnel arising from the long-term 18 use of Profax 10." 19 So we're talking about the end 20 users, not the folks manufacturing Profax 10, 21 correct? 22 A. That's correct. 23 Q. They mentioned silicosis. But at 24 the end of that paragraph, it says, "More 25 recently, further objections have been received
Page 79 1 Q. Could a competitor ever buy one of 2 your hot tops and pretty easily find out that 3 it had asbestos and silica in it? 4 A. They, they -- we would not sell them 5 a board. But if they got a board, they could 6 do whatever analytical work they knew about. 7 Q. And, sir, you certainly know that 8 they could have easily determined, to the 9 extent they got one of your boards, that it had 10 silica and asbestos in it. 11 A. Oh, yes. 12 Q. They could have determined exactly 13 how much as well, right? 14 A. Probably. 15 Q. Yeah. Under "Synopsis," it 16 addresses both silica and asbestos, but we're 17 going to focus on asbestos. 18 It says, "The mechanisms causing 19 these diseases are discussed. The nature and 20 extent of the hazards associated with Profax 10 21 are considered and it is concluded that the 22 manufacture and use of this material are not 23 entirely without risk. Means of obviating 24 these hazards are recommended." 25 So what he says at the very -- on	Page 81 1 regarding a possible asbestosis hazard and its 2 associated danger of cancer of the respiratory 3 tract." 4 Now, at this time, a little bit more 5 than a year earlier, Foseco had already been 6 made aware of the potential cancer hazard in 7 addition to asbestosis, correct? 8 A. That's correct. 9 Q. The next highlight says, "The 10 information gained has been used to illustrate 11 the possible risk of pulmonary disorders 12 accompanying the manufacture and use of Profax 13 10 and a basis for considering ways of reducing 14 or eliminating this risk." 15 Now, pulmonary disorders means 16 breathing or lungs generally, right? 17 A. Okay. 18 Q. Do you agree with that? 19 A. Yes. 20 Q. And, again, this man brings up not 21 just the manufacture, but also the use of 22 Foseco's hot tops, true? 23 A. Correct. 24 Q. There's a long section on silicosis 25 we're not going to address.

Page 82 1 And then if you'll please turn to 2 page 7, sir, there's the heading "Asbestosis." 3 A. Yes. 4 Q. It says, "Description of the 5 disease. Exposure to asbestos dust produced a 6 type of lung fibrosis which is diffuse, unlike 7 the nodular fibrosis caused by silica. 8 Affected lung tissue contains asbestos bodies 9 capable of identification in microscopic 10 sections of lung tissue." 11 So he's basically defining 12 asbestosis as a type of fibrosis in the lung, 13 true? 14 A. Correct. 15 Q. All right. If you go to the next 16 highlight, it says, "Crocidolite, blue 17 asbestos, and amosite are the two most suitable 18 asbestos grades for high-temperature insulation 19 and they are the most dangerous." 20 Did I read that right? 21 A. Yes. 22 Q. Okay. Now, this is the year that 23 Foseco has decided to sell its asbestos- 24 containing hot tops commercially, right? 25 A. Yes.	Page 84 1 and brown are the most dangerous forms of 2 asbestos, correct? 3 A. That's what he says. 4 Q. He says chrysotile and other forms 5 of asbestos are slightly less harmful, correct? 6 A. Correct. 7 Q. That means they're still harmful, 8 correct? 9 A. Correct. 10 Q. All right. So all three of the 11 types of asbestos that Foseco had, had used, 12 was using, would use in the future have been 13 identified as harmful by this man at Foseco, 14 correct? 15 MR. INABINET: Objection to form. 16 THE WITNESS: If not handled 17 correctly. 18 BY MR. PANATIER: 19 Q. Right. Now, I mean, theoretically, 20 you can be in a room full of poison gas so long 21 as you have a respirator and can breathe clean 22 air, right? 23 MR. INABINET: Objection to form. 24 THE WITNESS: Yes. 25
Page 83 1 Q. They are selling it with amosite 2 asbestos, correct? 3 A. Correct. 4 Q. And this Foseco employee has 5 identified amosite, along with crocidolite, as 6 the most dangerous grades of asbestos, true? 7 A. That's what he says. But in his, in 8 his conclusion or his summary, he says blue 9 asbestos must be immediately eliminated from 10 the formulation of Profax 10; amosite asbestos 11 is a perfectly satisfactory substitute. 12 Q. Even though it's just as dangerous 13 and crocidolite? 14 A. Well, he, he, he doesn't say it's 15 just as. He says they are the most dangerous, 16 which is a bit confusing to me reading this. 17 But he says that, but his recommendation is 18 substitute blue for -- I mean substitute brown 19 for blue, which we'd already done months 20 earlier. 21 Q. Okay. So to be very clear, the same 22 guy in the same report says on the one hand we 23 can substitute brown asbestos for blue, right? 24 A. Correct. 25 Q. And on the other hand, he says blue	Page 85 1 BY MR. PANATIER: 2 Q. So maybe this guy thought blue 3 asbestos was more dangerous than brown asbestos 4 and that's why he recommended brown. Is that 5 what you're saying? 6 MR. KADISH: Objection; speculation. 7 THE WITNESS: I, I, I can't -- I 8 don't know what his thoughts were writing 9 the report. 10 BY MR. PANATIER: 11 Q. Okay. As of this date, did Foseco 12 place a warning label on its hot tops that says 13 this hot top contains the most dangerous form 14 or one of the two most dangerous forms of 15 asbestos? 16 A. No, he did not. But he did notify 17 the steel mills of every raw material in the 18 product. And we're dealing with sophisticated 19 companies, the steel mills. 20 Q. I'm going to object to 21 nonresponsive, but I will address that. 22 Sir, as of 1965, did Foseco tell the 23 steel mills what they knew about other their 24 own product, what Foseco knew, that it 25 contained either the most or the second most

Page 86 1 dangerous type of asbestos in its product? 2 A. It told the steel mills that it had 3 asbestos in the product. 4 Q. Did it say that in our opinion, in 5 Foseco's opinion, our product contains one of 6 the two most dangerous types of asbestos? 7 A. I found no documentation that says 8 anything like that, no. 9 Q. The next section says, "Mechanism of 10 Asbestosis." "It was formerly thought that the 11 damaging effect of asbestos on the lungs was 12 purely mechanical, the sharp ends of the fibers 13 puncturing adjacent tissues. However, this 14 view is in disagreement with the fact that 15 other fibers such as glass wool do not appear 16 to damage lung tissue." 17 And the reason I highlighted that, I 18 wanted to ask you about is -- 19 A. I'm sorry. I've been trying to find 20 that on the page. 21 Q. Oh, you know what? Yeah, it's right 22 there. It's got a box around it, a highlighted 23 box around it. It's right under "Mechanism of 24 Asbestosis." 25 A. Okay. It's a box around it rather	Page 88 1 A. No. 2 Q. Only in Profax 10? 3 A. No. 4 Q. They're not using it? 5 A. No. 6 Q. Okay. He -- is he just verifying 7 that amosite is what they should be using in 8 his opinion? 9 A. He's, he's -- this is a report, not 10 just for Foseco, Inc. This is a report 11 generated for the Foseco companies. And what 12 he's saying is that there's a potentially 13 higher risk using blue. And he's not 14 recommending. He's saying we should change 15 over from blue to brown, which we'd already 16 done in April. This came out in August. And 17 we'd already switched from blue to brown in, in 18 April. 19 Q. So in August he's saying we should 20 switch from blue to brown. But they had 21 already done it? 22 A. We'd already done it. 23 Q. Okay. International had already 24 done it? 25 A. No.
Page 87 1 than -- I understand. I'm sorry. Yep. 2 Q. Okay. What he's saying is that it 3 may not just be how the fiber is shaped that 4 causes disease because other materials with a 5 similar shape aren't implicated in damaging 6 lung tissue; is that fair? 7 A. That's what he says, yes. 8 Q. All right. At the, at the bottom it 9 says, "Cancer associated with blue asbestos." 10 He says, "It has been known for a long time 11 that there is a higher incidence of cancer in 12 the lungs and adjacent tissues among asbestos 13 workers than among the rest of the population 14 by a factor of approximately 10 to 1." 15 So what he's saying there is 16 asbestos by a factor of 10 to 1 causes cancer 17 over nonexposed individuals, right? 18 A. He's saying blue asbestos. 19 Q. Right. Okay. 20 If you'll turn the page, sir. And 21 at this time -- because I, I believe you said 22 that he was advocating amosite as a substitute 23 at the end in his conclusions. At this time 24 Foseco is still using the blue asbestos; is 25 that right?	Page 89 1 Q. The U.S. had already done it? 2 A. We'd already done it. 3 Q. Had everybody already done it? 4 A. I don't know, but I don't believe 5 so. 6 Q. All right. So there were some 7 Foseco companies that had not switched from 8 blue to brown? 9 A. That's my understanding. 10 Q. All right. On the page marked 8, 11 there's a section called "Permissible Dust 12 Concentrations," and there should be a 13 squared-in paragraph. 14 A. Yep. 15 Q. It says, "The Ministry of Labor" -- 16 and I take it that's sort of similar to the 17 Department of Labor here in the U.S.? 18 A. It is, yes. 19 Q. -- "lays down a limit of 5 million 20 asbestos dust particles per cubic foot of 21 atmosphere. As is the case with the Ministry's 22 recommendations for salacious dust, the value 23 of this recommendation is restricted by the 24 limited information upon which it is based." 25 So I'll stop there. Which is --

Page 90 1 that's sort of a caveat, that there is a limit 2 that is set, but there's also limited 3 information upon which it's based, correct? 4 A. That's what it says. 5 Q. "The Ministry takes no account of 6 variations in individual susceptibility and 7 does not specify the method of analysis or give 8 any details of the average dimensions of an 9 asbestos particle. No distinction is made 10 between the various forms of asbestos." 11 So a few things. One, he's saying 12 is that for the people receiving this, they 13 should be conscious of the fact that there is 14 an individual susceptibility between people 15 that may make a limit safe for somebody and not 16 safe for others. Is that fair? 17 MR. KADISH: Objection to the 18 summary, once again. 19 THE WITNESS: I don't know how to 20 answer that. 21 BY MR. PANATIER: 22 Q. Well, do you, do you agree with what 23 I've said or not? 24 A. Yes, I agree with what you've said, 25 but I'm not technically qualified to make a	Page 92 1 A. Correct. 2 Q. And I think that's what we were 3 talking about before, that some had already 4 happened, others in were in the process, right? 5 A. Correct. 6 Q. The next paragraph says -- or the 7 next highlight, "Unfortunately, these nontoxic 8 substitutes are almost invariably more 9 expensive than the material they replace with 10 the result that their use may not be a sound 11 commercial proposition." 12 So I'm going to stop there. This is 13 the second reference now we've seen from 14 someone at Foseco where they talk about how 15 much more a nontoxic replacement costs than 16 asbestos, correct? 17 MR. KADISH: Objection. Object to 18 form. 19 MR. INABINET: Object to form. 20 THE WITNESS: That's what they're 21 saying, but it, it wasn't a question of we, 22 we -- if we found a substitute that was 23 more expensive, that we shouldn't use it 24 just because of the cost. 25 The main consideration was that
Page 91 1 comment on it. 2 Q. Okay. He says, "No distinction is 3 made between the various forms of asbestos." 4 And, of course, we can take from that that what 5 he's saying is there's a limit of 5 million 6 particles per million of asbestos dust in 7 effect in the U.K., and it applies to all forms 8 of asbestos, correct? 9 A. Yes. 10 Q. All right. There's another 11 highlight down at the bottom. "General: The 12 ideal solution is to replace toxic materials 13 such as silica and asbestos by nontoxic 14 materials such as olivine and synthetic mineral 15 fibers." 16 Now, does Foseco agree that across 17 the board to the extent that there is a viable 18 substitute it should always substitute a 19 nontoxic material for a toxic material? 20 A. Correct. 21 Q. Okay. The next highlight says, "The 22 replacement of blue asbestos by amosite has 23 been recommended by Foseco International, 24 Limited, and undertaken by an increasing number 25 of group companies," right?	Page 93 1 if it made the product way too expensive 2 for use by the steel mills. 3 BY MR. PANATIER: 4 Q. Objection; nonresponsive. 5 Which also means they wouldn't buy 6 it from you. 7 A. No, it means that -- let's -- I'll 8 make an example. If we could come up with a, 9 with a replacement that costs 10 times more, we 10 would make that product available to the steel 11 mill. And if they said we cannot afford to do 12 that, that would be their choice. 13 It wouldn't -- it isn't something 14 that Foseco would do to say, look, we found a, 15 a replacement, but it's more expensive so we're 16 not going to use it. 17 Q. If the steel mills wouldn't buy the 18 replacement because that product was too 19 expensive, Foseco wouldn't sell it, right? 20 A. Correct. 21 Q. But in answer to my question, my 22 question was, this is now the second time we've 23 seen in the period of about one year in the 24 mid-1960s where nontoxic substitutes for 25 asbestos have been discussed and the fact that

Page 94 1 they are more expensive than asbestos was 2 mentioned, correct? 3 MR. KADISH: Same objection; form. 4 THE WITNESS: Correct. They were 5 mentioned because that's part of the work 6 that they're doing. But that was -- that 7 did not influence whether we could find 8 asbestos replacement products or not. 9 BY MR. PANATIER: 10 Q. Okay. I'm going to object to 11 nonresponsive. 12 Two times they have brought up price 13 as a factor in considering a substitute, 14 correct? 15 A. They have brought price up in -- as 16 part of the discussion in looking at 17 substitutes. 18 Q. It says, "Under such circumstances, 19 steps must be taken to reduce the amount of 20 toxic material entering the lungs of persons 21 working with it." 22 Persons working with it is not -- is 23 not specific just to manufacture because people 24 work with Foseco's hot tops when -- after they 25 are manufactured, correct?	Page 96 1 works is virtually ruled out for this reason." 2 Did I read that right, first of all? 3 A. I'm just trying to follow you. Yes, 4 I think you did, yes. Let me just read it 5 again. 6 (Witness reviewed document.) 7 THE WITNESS: Correct. 8 BY MR. PANATIER: 9 Q. Okay. So Foseco is aware of a few 10 things: One, that a power dust extraction 11 system can be made to control dust from 12 Profax 10. 13 A. Correct. 14 Q. They also know that steel mills are 15 not going to have those in place around the use 16 of Profax 10. Correct? 17 A. I don't know, no. I don't know 18 where that comes from. 19 Q. Well, here's what it says. "These 20 systems can prove to be prohibitively expensive 21 and their use in steel works is virtually ruled 22 out for this reason." 23 Did I read that right? 24 A. You read it right, but I don't know 25 whether that -- the steel mills would, would
Page 95 1 A. Correct. 2 Q. Okay. "Respirators are the least 3 satisfactory method for protecting men working 4 in toxic dusts." 5 Does Foseco agree with that? 6 A. It, it depends what it's compared 7 to. If, if that's all you had and you didn't 8 have dust extractors or dust collectors, 9 whatever. 10 Q. Right. What that, that -- what 11 that's saying is, and you know this, is 12 respirators are tough to train. They're tough 13 to wear, especially in hot environments. You 14 have to have other engineering controls in 15 place first, and respirators should be a last 16 resort. Is that fair? 17 A. Yes. 18 Q. Okay. Go ahead and turn to the next 19 page. There's a highlight there. "Power dust 20 extraction systems can be made to control dust 21 very effectively and should be considered 22 seriously for any particularly hazardous 23 operation such as cutting or grinding Profax. 24 On a large scale, these systems can prove to be 25 prohibitively expensive, and their use in steel	Page 97 1 certainly have, have methods of controlling 2 whatever risks they had. 3 Q. Sir, did you ever visit a steel mill 4 where you saw power dust extraction systems 5 being used in the hot top loadings -- loading 6 stations? 7 A. No, no. 8 Q. How many times have you been to 9 Armco Butler? 10 A. I have never been to Armco Butler. 11 Q. Go ahead and turn the page. 12 This says, "Where cutting, grinding 13 filing or" -- is that linishing? Is that a 14 word? 15 A. Yes. 16 Q. Okay. What is linishing? 17 A. It's, it's taking -- I'll use a 18 simple -- this isn't technically correct, but 19 it's, it's just taking the -- any rough edge 20 that may be on the boards once it comes out of 21 the oven. 22 Q. Okay. All right. So what it says, 23 "Where cutting, grinding, filing, or linishing 24 become necessary in Profax manufacture, 25 atmospheric contamination by silica and

Page 98 1 asbestos can attain dangerous levels. Blue 2 asbestos if used will now be in a dry, dusty 3 state and will consequently be very dangerous 4 even in a single exposure." 5 A. I'm, I'm -- yeah, I'm trying to 6 follow you again. It's all bracketed rather. 7 Let me just read it again. 8 Q. Sure. 9 A. Correct. 10 Q. Okay? 11 A. Yes. 12 Q. Now, my question for you is as far 13 as how the manufacture of Profax took place, 14 there's no difference between the final product 15 in terms of its dry, dustiness, whether you're 16 using chrysotile, amosite, or crocidolite, 17 correct? 18 MR. KADISH: Objection. I'm not the 19 sure how he would know that. 20 MR. PANATIER: I'm asking if him if 21 he knows. 22 THE WITNESS: Well, I know that we 23 were not using blue at the time. That's 24 why I'm hesitant. 25	Page 100 1 itself for end users that said if you are 2 installing or removing these boards you should 3 wear a respirator? 4 A. No. 5 Q. Okay. If you'll go to the next 6 highlight, it's at the end of that paragraph, 7 that's where he says we should eliminate blue 8 in favor of amosite, right? 9 A. Correct. 10 Q. Some folks were still using it 11 within the Foseco companies; but as you've 12 said, in the U.S. they were not, right? 13 A. Correct. 14 Q. Okay. "Profax in the customers' 15 works," now, they're talking about the steel 16 mills, right? 17 A. Yes. 18 Q. "There is no doubt that in the 19 present form of Profax we are supplying a 20 product which under unfavorable circumstances 21 can give rise to toxic levels of atmospheric 22 contamination by silica and asbestos." 23 Now, sir, that's true whether it was 24 blue, brown, or white asbestos, right? 25 A. That's correct.
Page 99 1 BY MR. PANATIER: 2 Q. Right. What he's saying is blue, if 3 used, and it comes out of the manufacture in a 4 dry, dusty state, okay, would be very 5 dangerous. 6 My question is the fact that 7 something contains chrysotile or amosite as it 8 did in the future, okay, or a combination of 9 both, doesn't make it a nondusty product, 10 correct? 11 MR. INABINET: Objection to form. 12 THE WITNESS: It, it -- there's a 13 product that comes out of the oven and it's 14 in a dry state. And there is some -- or 15 there was on some cases some linishing of 16 those boards, and they -- the people had 17 respirators and we had dust extractors 18 there. 19 BY MR. PANATIER: 20 Q. So for the folks who were just 21 knocking corners off from the manufacturing 22 process, those folks had to wear respirators? 23 A. Correct. 24 Q. As of this date, did Foseco put a 25 warning on its packaging or on the boards	Page 101 1 Q. Okay. If you'll go to the last 2 page. It says, "In laboratory experiments" -- 3 A. Wait a minute. 4 MR. INABINET: Wait a minute. 5 BY MR. PANATIER: 6 Q. I'm sorry. Second-to-last page -- 7 third-to-last page -- fourth-to-last page. The 8 page marked 12. How about that? 9 A. I got it. I got it. 10 Q. I'm going to get some more coffee at 11 a break. 12 All right. On page 12, sir, it 13 says, "In laboratory experiments conducted at 14 Foseco International, Limited, it was found 15 that 1 pound of Profax ash contained a total of 16 .424 grams of respirable matter of which 1.8 17 grams was asbestos." 18 Did I read that right? 19 A. Yes. 20 Q. When it says Profax ash, I assume 21 what they're saying there is after it has been 22 through the steelmaking process; is that fair? 23 A. That's correct. 24 Q. So this is the used Profax boards? 25 A. Whatever's left of the boards.

Page 102 1 Q. Whatever's left. 2 So this is -- they're actually 3 reporting where they did look at the leftover 4 board material after steelmaking? 5 MR. INABINET: Objection; form. 6 THE WITNESS: That's correct. Yes. 7 BY MR. PANATIER: 8 Q. All right. It says in the next 9 highlight, "Assuming that the asbestos 10 particles averaged 30 microns in length by 1 11 micron in diameter, this means that 1 pound of 12 Profax can give rise to 756 million particles 13 of asbestos." 14 Did I read that right? 15 A. You did. 16 Q. Okay. Now, how many pounds -- well, 17 you give me -- I have never worked in a steel 18 mill. I don't know if you can tell. 19 But how, how big is -- do you know 20 how big the, the molds were at Armco Butler? 21 A. I can't remember them, but we have 22 information that shows the mold sizes. 23 Q. Okay. About how big are they? 24 A. I don't know what -- for what 25 purpose? I mean, it could be -- do you mean	Page 104 1 35. 2 Q. Okay. That's a size of mold that 3 you might see? 4 A. Yeah. I'm not saying -- I'm making 5 an example. I don't know whether that's true 6 or not. 7 Q. But just as by way of example, if 8 you have a mold where the top of the mold where 9 the hot tops would go is 25 inches by 30 10 inches, then does that mean you have 25-inch 11 boards and 30-inch boards? 12 A. Yes. 13 Q. Okay. And how, how thick are those 14 boards? 15 A. About an inch-and-a-half on average. 16 Q. How deep are they on average? 17 A. It depends on the application, but 18 let's make -- 2 feet, say. 19 Q. Okay. So you, you may -- and this 20 varies obviously with the application. You may 21 have a board that's basically 25 inches by 24 22 inches by one inch thick or you may have one 23 that's 30 inches long by one inch thick by 24 24 inches deep, right? 25 A. Yes.
Page 103 1 the mold size? If this is a mold, do you mean 2 the total size of this mold? 3 Q. That's a good, that's a good 4 question. Here, I'll clarify my question for 5 you. Okay? 6 In just your -- for whatever the, 7 the most general testimony you can give is, 8 okay, for Profax boards, hot tops, what's the 9 average size? 10 A. There isn't such a thing as an 11 average size. 12 Q. What's the one that was sold the 13 most? 14 A. I don't know. It depended on the 15 ingot. Every steel mill had various ingot 16 sizes. 17 Q. Okay. 18 A. And they were usually unique to that 19 steel mill. 20 Q. For the big end down molds at Armco 21 Butler, how big would the hot tops be? 22 A. Various. It depends on the mold. 23 Q. Okay. Well, give me an example. 24 A. Well, this -- if this is the ingot 25 mold, the top could be, let's say, 25 by 30 or	Page 105 1 Q. How much do, do -- does the 30-inch 2 board weigh? 3 A. I have no idea. 4 Q. You know, I saw some literature, and 5 we may address this a little bit later, that 6 ultimately Foseco also offered a one-piece -- 7 A. Yes. 8 Q. -- hot top. So instead of having to 9 put in all four sides, you could just put one 10 piece in, right? 11 A. Correct. 12 Q. And I saw in the, in the catalog 13 that weighed about 38 pounds. Does that sound 14 about right? 15 A. It could be, yes. 16 Q. So if you had a 38-pound hot top, we 17 could take this number, 756 million particles 18 of asbestos, and multiply it by 38 and that 19 would tell us how many particles of asbestos, 20 at least in Foseco's understanding, there would 21 be in one of those products, right? 22 MR. INABINET: Objection to form. 23 THE WITNESS: I'm not technically 24 qualified to answer. It sounds reasonable, 25 but I don't know.

Page 106 1 BY MR. PANATIER: 2 Q. I mean, I'm, I'm barely technically 3 qualified, by I think grammar school, grammar 4 school, maybe middle school math can get us 5 there. 38 -- 38 pounds times 756 million in 1 6 pound -- 7 A. Yeah. 8 Q. -- gives us an approximation, right? 9 A. Correct. 10 MR. INABINET: Same objection. 11 BY MR. PANATIER: 12 Q. And they're talking about the 13 leftover dust, right? 14 A. Correct. 15 MR. INABINET: Objection. 16 BY MR. PANATIER: 17 Q. Foseco knows as of 1965 that there 18 are hundreds of millions of asbestos fibers 19 left over after the steelmaking process, 20 correct? 21 MR. INABINET: Objection. 22 THE WITNESS: I, I, I can't answer. 23 I'm not -- I can't answer that question. 24 BY MR. PANATIER: 25 Q. That's what they say here, is it	Page 108 1 BY MR. PANATIER: 2 Q. Where does the other 37 pounds go? 3 MR. INABINET: Objection. 4 THE WITNESS: I don't know. I'm not 5 -- I can't make any sense able comment on 6 that. I just don't know. 7 BY MR. PANATIER: 8 Q. Are you saying that you believe it's 9 possible that if you have a 38-pound hot top 10 that there might be just 1 pound of ash left? 11 A. No. 12 MR. INABINET: Objection. 13 THE WITNESS: No, I don't know, but, 14 no, it doesn't -- I can't make a sensible 15 comment on it. I don't know. 16 BY MR. PANATIER: 17 Q. You would expect -- because you've 18 seen used hot tops, right? 19 A. No, I don't think I have. 20 Q. You've never seen a used hot top? 21 A. No. 22 Q. Have you ever been to a steel mill? 23 A. I worked at a steel mill. 24 Q. Okay. Did you work around any hot 25 tops?
Page 107 1 not, sir? 2 MR. INABINET: Objection. 3 THE WITNESS: Yeah, but what you -- 4 but it doesn't say -- you're saying of a 5 38-pound board. It doesn't mean to say 6 there's 38 pounds of ash left. 7 BY MR. PANATIER: 8 Q. What this is saying is -- okay. 9 Well, you're familiar with -- I know 10 you were primarily in finance and 11 administration. But you're familiar with the 12 principle that you can't really destroy matter, 13 right? 14 A. Correct. 15 MR. INABINET: Objection. 16 BY MR. PANATIER: 17 Q. Okay. So how much ash approximately 18 do you have -- does Foseco believe would be 19 left from a 38-pound board? 20 A. I have no idea. 21 Q. Certainly, sir, you can agree it's 22 more than one pound, right? 23 MR. INABINET: Objection. 24 MR. KADISH: Objection. 25 THE WITNESS: I don't know.	Page 109 1 A. No. 2 Q. When did you work there? 3 A. I worked for a steel mill from 1959 4 until 1970. 5 Q. So as a young man? 6 A. Yes. 7 Q. Okay. Foseco -- you're here as 8 Foseco. Can Foseco give the jury any 9 appreciation for how much hot top is left after 10 the steelmaking process? 11 A. I have no idea. 12 MR. INABINET: Objection. 13 BY MR. PANATIER: 14 Q. Can you do it by percentage volume? 15 A. No. I don't know. I can't answer 16 your question. 17 Q. I will mark the next exhibit then. 18 (Money Deposition Exhibit No. 9 19 was marked for identification.) 20 MR. INABINET: Is there something 21 highlighted, Chris? 22 MR. PANATIER: No, no, because I'm 23 just -- I'm responding to something that he 24 just brought up. 25 MR. INABINET: Okay.

Page 110 1 MR. PANATIER: It looks like maybe 2 two catalogs, but I'm going to refer to the 3 first one. 4 MR. INABINET: Okay. 5 BY MR. PANATIER: 6 Q. Sir, is that a Foseco advertisement 7 or catalog? 8 A. It is a Foseco brochure indicating 9 the products available. 10 Q. Okay. So that brochure, if you turn 11 to the third page, I believe it is, do you see 12 that where they show an example of a used ingot 13 with used a hot top on it? 14 A. Show me. 15 Q. The second, the second group. 16 A. This? 17 Q. Yeah. Do you see where they do 18 that? 19 MR. INABINET: I mean, are you 20 pointing at a picture, Chris? 21 BY MR. PANATIER: 22 Q. The picture on the far right, that 23 picture, yes, sir. What is that a picture of? 24 A. He says this is the top of an ingot 25 cast with the aid of Foseco Profax insulating	Page 112 1 or after -- I'm not sure. 2 BY MR. PANATIER: 3 Q. During use where do the boards go? 4 A. If I can show you? 5 Q. Yeah, yeah, please. 6 A. The boards would go here. 7 Q. Do they fit on that lip? 8 A. Well, I don't think it, it was a 9 lip. It may have been a lip at the time. But 10 that's -- it is a lip now. But that's where 11 the boards would go. 12 Q. Okay. So they would fit -- 13 there's -- basically, the bottom of the ingot 14 is thicker than the top of the ingot. 15 A. Not necessarily. 16 Q. Well, there it is. 17 A. The -- I'm not sure I can answer 18 your question without confusing you. I'm 19 trying to understand your question. 20 Q. Yeah. In the picture, the, the 21 bottom portion of the ingot appears to be 22 wider -- 23 A. Than this top piece. 24 Q. -- than the top portion? 25 A. That's correct.
Page 111 1 hot top. There is no shrinkage cavity at the 2 top of this ingot. 3 Q. Okay. So that is -- he says that is 4 an ingot cast. So we know that's after it's 5 been poured, correct? 6 A. Correct. 7 Q. And that's a picture of the actual 8 ingot with the -- with some leftover stuff on 9 top, right? 10 MR. KADISH: Objection to form. 11 THE WITNESS: It's, it's stuff on 12 top which is not Profax. 13 BY MR. PANATIER: 14 Q. Okay. They've pulled away the, the 15 Profax, right? 16 A. Or it's fallen away. 17 Q. Okay. But the shape of the ingot is 18 intact, correct? 19 A. Yes. 20 Q. Okay. What kept it intact? 21 A. I don't know what you mean, what 22 kept it intact. 23 Q. Well, okay. Where would the Profax 24 boards go? 25 MR. INABINET: Objection. After use	Page 113 1 Q. Thicker was a bad, bad use -- a bad 2 word. 3 A. Okay. 4 Q. It is less wide on top because of 5 the mold or because of the boards in the mold? 6 A. It depends if it was big end up or 7 big end down, which is why I'm hesitant. So 8 let me answer it on a big end down because it's 9 pretty easy. 10 If, if this is a big-end down mold, 11 what would happen is there would be a casting 12 put on top and then there would be a small 13 opening where we would put the, the product. 14 And that would be significantly less than the 15 dimensions of the ingot mold. That's why I'm 16 hesitant in how to answer it correctly. 17 Q. So the -- when you say "the 18 product," you're talking about the hot tops? 19 A. Correct. 20 Q. The hot tops -- by virtue of the hot 21 tops being present, the end of the, of the 22 ingot where they are located will be less wide 23 than the rest of the ingot. Is that fair? 24 MR. INABINET: Objection. 25 THE WITNESS: Let me see. Yes, it

Page 114 1 would. 2 BY MR. PANATIER: 3 Q. Okay. 4 A. For that, for that small portion at 5 the head. 6 Q. Sure. When you were working in the 7 steel mill, were they using hot tops at that 8 time? 9 A. Yes. 10 Q. Okay. Did you have an opportunity 11 to see how much material was left over after 12 the pouring process? 13 A. No. I never looked. 14 Q. Okay. Were you one of the guys who 15 installed hot tops? 16 A. No. 17 Q. Okay. All right. You can set that 18 aside, sir. 19 A. Are you done with this one as well, 20 Exhibit 8? 21 Q. Let me just -- no. 22 A. Okay. 23 Q. Just to finish up this little line 24 of questioning, on page 12, they, they took a 25 pound of ash.	Page 116 1 pound of ash? 2 MR. INABINET: Objection; form. 3 MR. KADISH: Objection. 4 THE WITNESS: I can't answer that. 5 MR. PANATIER: And, guys, can I ask 6 you, just one of your object, please. 7 BY MR. PANATIER: 8 Q. Okay. All right. Sir, if you'll 9 turn, please, to the next page. There's the 10 summary that you brought up earlier? 11 A. Yes. 12 Q. Okay. And he's saying amosite is a 13 perfectly satisfactory substitute for blue, 14 right? 15 A. Correct. 16 Q. Now, does he say from a health 17 perspective or does he say from a technical 18 perspective? 19 A. It, it doesn't say. 20 Q. Okay. Because we know from a health 21 perspective he said that amosite and 22 crocidolite are the most dangerous fibers, 23 right? 24 A. Correct. 25 Q. But we all -- but we do know that
Page 115 1 A. Let me get to page 12 again. Yeah. 2 Q. They took one pound of ash. And as 3 Foseco, you're saying I don't know how much hot 4 top you need to create one pound of ash; is 5 that right? 6 A. Well, I'm answering for myself, and 7 I don't know what Foseco's -- I've had no 8 discussion or no knowledge of what Foseco's 9 understanding is. 10 Q. Right. And you're -- but you're 11 here as Foseco. So I'm asking Foseco, can 12 Foseco testify how much original hot top is 13 needed to generate one pound of ash? 14 A. And I don't know. I don't know. 15 MR. INABINET: Objection; asked and 16 answered. 17 BY MR. PANATIER: 18 Q. Will you agree that in using a -- 19 the dimensions you described before, 35 -- 30 20 inches by 25 inches, so you would have a -- the 21 top, the hot top area would be 30 by 25 by 30 22 by 25 by 24 deep and one-inch thick, correct? 23 A. Yes. Or one-and-a-half. 24 Q. Okay. Can you agree that after the 25 steelmaking process you would have at least one	Page 117 1 amosite would do the job technically just as 2 well as the crocidolite, true? 3 A. Correct. 4 Q. Okay. He doesn't specifically call 5 out in paragraph 1 any comparison regarding 6 health, right? 7 A. He does not. 8 Q. Let's see here. He goes on in 2 and 9 he says, "In our works, powder dust" -- 10 "powered dust extraction must be applied to all 11 locations where Profax is sawn or ground. Good 12 ventilation must be provided at mixing 13 platforms. Overalls must be regularly 14 laundered to prevent accumulating dust and dry 15 slurry." 16 So there he's talking about 17 precautions to prevent exposure, true? 18 A. Correct. 19 Q. He says, "Ideally, regular medical 20 examination should be conducted upon all 21 personnel handling Profax and periodic dust 22 monitoring of the atmosphere may be advisable." 23 Correct? 24 A. Correct. 25 Q. He does not say if we move to

Page 118 1 amosite we don't have to do these things, does 2 he? 3 A. He does not say that. 4 Q. Paragraph 4, "Recommendations 1 to 3 5 would become inoperative. In other words, they 6 wouldn't have to do those things if Profax were 7 formulated from nontoxic materials." Correct? 8 A. Correct. 9 Q. "Olivine is still" -- is that how 10 you say that? 11 A. Olivine, yes. 12 Q. Olivine. 13 "Olivine is still the best 14 substitute for silica, so far examined. 15 Current experiments indicate that chopped glass 16 fiber, about 1/8ths inch 3 millimeters length, 17 is a suitable substitute for asbestos but this 18 material is very expensive." 19 And there again he talks about it 20 being suitable technically but that it's 21 expensive, correct? 22 A. Yeah. So as I've said, we tried it 23 and it would not work. 24 Q. Right. "Initial experiments with 25 slag wool have been partly successful but	Page 120 1 than the cheapest forms of asbestos," right? 2 A. That's what he says, yes. 3 Q. Okay. All right, sir. We are done 4 with that one. 5 THE VIDEOGRAPHER: Going off the 6 video record at 11:56 a.m. at the end of 7 Tape 2. 8 (Whereupon, a recess was taken.) 9 THE VIDEOGRAPHER: Going back on the 10 video record at 12:04 p.m. at the beginning 11 of Tape 3 in the deposition of Anthony 12 Money. 13 (Money Deposition Exhibit No. 10 14 was marked for identification.) 15 BY MR. PANATIER: 16 Q. All right. Sir, I will show you 17 Exhibit 10. Sir, this is a Foseco -- again, 18 this is International. This is U.K., right? 19 A. Yes. 20 Q. -- research and development report 21 on the use of synthetic inorganic fibers to 22 replace asbestos in Profax. And if you turn 23 the page, it's February 22nd, 1967, true? 24 A. Correct. 25 Q. At this point, Foseco has been
Page 119 1 difficulty has been encountered in forming the 2 flange of a Profax slab. This is probably 3 associated with fiber length and will be 4 investigated vigorously in the near future, 5 particularly because slag wool is a very cheap" 6 -- "very attractively priced material and costs 7 less than the cheapest form of asbestos." 8 Did I read that right? 9 A. Yes. 10 Q. So he's saying we're trying to use 11 slag, slag wool. 12 A. Yes. 13 Q. It's not going so hot right now, but 14 we're going to really try vigorously because 15 it's even cheaper than asbestos, right? 16 A. No, I don't think he's saying that. 17 He's saying that we're going to try various 18 things, one of which is slag wool, and by the 19 way, it's cheaper than asbestos. He's not -- 20 he's not saying we should try it because it's 21 cheaper. 22 Q. Well, he actually says "and will be 23 investigated vigorously in the near future, 24 particularly because slag wool is a very 25 attractively priced material and costs less	Page 121 1 selling asbestos-containing hot tops for around 2 two years. 3 A. Correct. 4 Q. It started sometime in '65? 5 A. Correct. 6 Q. We're now in early '67, true? 7 A. Right. 8 Q. All right. It says, "Synopsis." 9 "Many of these materials" -- well, actually, it 10 would be better for context. 11 It says, "Synopsis. This report 12 gives a full analysis of the technical 13 properties, cost, and availability of inorganic 14 synthetic fibers for the replacement of 15 asbestos in side insulators." 16 Side insulators is hot tops, right? 17 A. It's the boards, correct. 18 Q. The boards. Okay. 19 "Many of these materials are too 20 costly to use at the present time. The results 21 show, however, that certain synthetic fibers of 22 the slag wool type are economically viable and 23 bestow other technical improvements upon the 24 product as well as the all important removal of 25 the risk of asbestosis?"

Page 122 1 Did I read that right? 2 A. Yes, you did. 3 Q. Okay. He says that many of the 4 materials are too costly to use, but he does 5 call out the slag wool which we saw in the 6 previous memo, right? 7 A. Correct. 8 Q. Okay. Turn the page to 9 "Introduction." It says, "The two industrial 10 diseases, silicosis and asbestosis, have been 11 recognized by both Foseco and Sandviken as the 12 major disadvantages of Profax since its 13 inception." 14 Now, what is Sandviken? 15 A. Sandviken is a Swedish company that 16 developed the Profax-type boards or ways of hot 17 topping ingots. 18 Q. Is that one of the -- is that one of 19 the Foseco companies? 20 A. No. 21 Q. It's just another company? 22 A. It's just another company. 23 Q. Okay. So what Foseco is saying 24 here -- what this gentleman, who is a Foseco 25 employee, correct?	Page 124 1 A. No. 2 Q. What about '65? 3 A. No. 4 Q. Okay. Go to the next highlight. 5 "Asbestosis health statistics were beginning to 6 show that lung tissue carcinoma could occur 7 only after exposure to crocidolite. Foseco 8 International, Limited, immediately warned the 9 whole group of this danger and because of very 10 rapid and detailed work by Foseco (FS) Limited 11 were able to recommend an alternative grade of 12 asbestos that avoided this carcinoma risk." 13 Now, we looked at the prior document 14 from '65. And at no point did it ever say 15 amosite had no carcinoma risk; did it? 16 A. I need to read the report again. 17 Q. Go ahead. I think it was page 14 or 18 15, or the conclusions, if you want to look at 19 that. 20 A. I don't think it mentions that at 21 all. 22 Q. Okay. In fact, you're, you're not 23 aware of any document to this point that was 24 put together by Foseco International or Foseco, 25 Inc., where they said, oh, amosite is free of a
Page 123 1 A. Let me -- I don't -- let me just 2 check. He's a -- he's a Foseco International 3 employee. 4 Q. Right. He's -- and, of course, 5 Foseco -- is Foseco, Inc., in the U.S.? 6 A. Foseco, Inc., is in the U.S. 7 Q. Foseco, Inc., would have received 8 this? 9 A. Yes. 10 Q. Okay. Foseco, Inc. -- and actually, 11 the previous exhibit that we went through, 12 Foseco, Inc., would have received that -- not, 13 not the catalog. The other one. 14 MR. INABINET: Exhibit 8. 15 BY MR. PANATIER: 16 Q. The Washburn paper. 17 A. Yes, it definitely did, yes. 18 Q. All right. What Mr. McGrath says is 19 that since Profax's inception, Foseco has known 20 that the major disadvantage of the product is 21 silicosis and asbestosis, correct? 22 A. Correct. 23 Q. All right. Did silicosis or 24 asbestosis appear as a warning starting in 1967 25 on the product?	Page 125 1 carcinoma risk, correct? 2 A. I don't know whether -- I can't 3 recall seeing one that says that, no. 4 Q. And that's what I'm asking. You 5 can't recall having seen it? 6 A. I can't recall, no. 7 Q. To continue, "We -- "We're now in a 8 position to sell a product of very low 9 silicosis risk and we thought insignificant 10 asbestosis risk. As respiratory disease 11 research has progressed, it has become more 12 apparent that asbestosis is a very serious 13 complaint that can result from very low 14 exposure levels." 15 Did I read that right? 16 A. Yes. 17 Q. Okay. "Foseco as a large 18 responsible supplier of industrial products 19 must however recognize the significance of the 20 medical statistics and take all steps to ensure 21 that its product is not only useful and 22 economic but also safe to use." 23 Did I read that right? 24 A. Yes, you did. 25 Q. Okay. At this time, did Foseco

Page 126 1 provide any warning, admonishment, statement in 2 any of its brochures, manuals, catalogs, that 3 the asbestosis risk from Profax can occur from 4 very low-level exposures? 5 MR. KADISH: Objection; form. 6 THE WITNESS: No, we did not. 7 BY MR. PANATIER: 8 Q. Okay. If you'll turn the page, 9 please, sir. "The advent of wheat flour bonded 10 Profax gave considerable hopes of eliminating 11 asbestos without replacing it." 12 Now, wheat flour, what is that? 13 A. I don't know. Technically, I don't 14 know. 15 Q. It's some, it's some material that 16 they were hoping would eliminate the need for 17 asbestos, right? 18 A. It was another look at asbestos 19 replacement, correct. 20 Q. "The Australian company" -- what are 21 they talking about there? 22 A. The Foseco company in, in Australia. 23 Q. All right. 24 -- "went ahead with this recipe and 25 have never used asbestos since."	Page 128 1 Q. -- is that the Australia Foseco 2 entity had been using a wheat flour bonded 3 Profax that did not need asbestos, true? 4 A. It's saying they did, yes. 5 Q. We also know that they didn't need 6 asbestos since they start had doing it, right? 7 A. That's what it says, yes. 8 Q. But the rest of the Foseco group as 9 a whole didn't use wheat flour because there 10 wasn't -- it wasn't cost advantageous, correct? 11 A. No. I think it's saying -- it says 12 the group as a whole, however, was unmoved by 13 the cost advantages. It -- to me I read that 14 wheat flour, they tried it in Australia and it 15 worked and it was cheaper. That's what -- 16 that's the way I look at it -- I read that. 17 Q. Oh, okay. So we can be clear as far 18 as you how read it as, Foseco was aware of a 19 replacement for asbestos that was cheaper to 20 make and decided not to use it? 21 A. No, it -- 22 MR. INABINET: Objection; form. 23 THE WITNESS: No, that's not, that's 24 not. He's saying at this point in time and 25 when they tried it in Australia for
Page 127 1 Now, sir, you've seen this document 2 before, right? 3 A. Yes, I have. 4 Q. You were aware that one of the 5 Foseco groups had used this wheat flour bonded 6 Profax and never needed to use asbestos again, 7 right? 8 A. That's what it says, yes. 9 Q. "The group as a whole, however, was 10 unmoved by the cost advantage of wheat flour 11 and therefore unlikely to be able to take 12 advantage of the asbestos removal 13 potentialities of this bonding" -- "of this 14 bonding systems." 15 Did I read that right? 16 A. I'm just trying -- I'm trying to 17 read it with you. Yes, did you. 18 Q. Okay. And I apologize. I tend to 19 move fast. So I can slow down as -- 20 A. No, no, you go ahead, and I'll tell 21 you if I'm struggling. 22 Q. So what we know from this 23 document -- and it's a document that went to 24 all the Foseco companies, correct? 25 A. Yes.	Page 129 1 whatever the steel practices they had at 2 the time it worked there. But we could 3 never get it to work elsewhere. We 4 certainly -- we tried it in the U.S.A. and 5 we couldn't get it to work. 6 BY MR. PANATIER: 7 Q. Does it say they tried it right 8 there? 9 A. No, but I know we did. We tried 10 everything that other companies were, were 11 trying to use. We also tried to see if we 12 could get it to work on, on the steel mills in 13 the U.S.A. 14 Q. Okay. I'm going to object to 15 nonresponsive. 16 Does it say here that they tried 17 wheat flour, the wheat flour bonded Profax in 18 the U.S.? 19 A. No. 20 Q. Does it give any other reason except 21 for discussing cost as far as why it was not 22 being used by the rest of the group? 23 MR. KADISH: Objection; form. 24 THE WITNESS: I don't know how to 25 read that.

Page 130 1 BY MR. PANATIER: 2 Q. You told us the way you read it is 3 it appeared that wheat flour was actually 4 cheaper. It was a cost advantage over 5 asbestos, correct? 6 A. Well, it's -- 7 MR. KADISH: Asked and answered. 8 THE WITNESS: It's not clear to me 9 what it means. But all I'm telling you is 10 we tried wheat flour and it did not work. 11 BY MR. PANATIER: 12 Q. How was steel made in Australia 13 differently than it was made here that it 14 worked in Australia and it didn't work here? 15 A. It could be smaller ingots. It 16 could be pouring temperatures. It could be 17 same as the Middletown question you asked me 18 before. Maybe, maybe they did different 19 practices that allowed it. 20 Q. To your knowledge, did Foseco ever 21 offer a wheat flour bonded Profax in the U.S. 22 and say if you alter your steelmaking procedure 23 as follows, you can use a 24 nonasbestos-containing Profax? 25 A. No, we didn't.	Page 132 1 sufficient data to enable all companies in the 2 group to replace asbestos in their product 3 without sacrifice of properties." 4 Did I read that right? 5 A. Yes. 6 Q. So what International is saying -- 7 and is this the, the parent company of all the 8 other companies? 9 A. No. 10 Q. Is it just a sister company? 11 A. Yes. 12 Q. Okay. So this is a sister company 13 of all the other companies. And what this -- 14 what this company is saying is this report 15 contains sufficient data to enable all 16 companies, -- that includes the U.S. company, 17 right? 18 A. Yes. 19 Q. -- to replace asbestos in their 20 product without sacrifice of properties. True? 21 A. Correct. 22 Q. That was their opinion, right? 23 A. Correct. 24 Q. Have you seen any correspondence 25 from the U.S. company in response to this
Page 131 1 Q. Was that, to your knowledge, ever 2 even thought of as a potential alternative to 3 selling all asbestos Profax at that time? 4 A. You mean wheat flour? 5 Q. Yes. 6 A. No. We tried wheat flour and it 7 would not work. 8 Q. Because you said of the way steel 9 was made in the U.S., right? 10 A. I'm assuming that. I know that when 11 they tried wheat flour in forming and trying 12 finished products it would not work in the 13 U.S.A. for whatever reason. And I'm not 14 technically qualified to answer what the 15 technical reason is. 16 Q. My question, though, is did Foseco 17 ever say we can offer a wheat flour bonded 18 Profax that does not have asbestos if your 19 metal manufacturing process is as follows? 20 MR. KADISH: Objection. That's been 21 asked and answered. 22 THE WITNESS: No, no. I'm not aware 23 of that at all. 24 BY MR. PANATIER: 25 Q. "This present report contains	Page 133 1 technical communication that says, no, you're 2 wrong; we tried wheat flour, it doesn't work? 3 A. Not that I can recall seeing, no. 4 Q. Okay. You can set that aside, sir. 5 And that was February '67, correct, 6 that we were looking at? 7 A. It was 22nd of February, I think, 8 1967. Yeah. 9 Q. Okay. As of '67, the U.K. company 10 that you started at three years later was 11 saying to everybody else there is a suitable 12 substitute for asbestos, right? 13 A. They're saying there's a possible 14 suit, suitable. I -- it wasn't a replacement. 15 We could not get them to work. 16 Q. Did they say possible substitute? 17 A. No. 18 Q. They said there was a substitute; 19 didn't they? 20 A. They did. 21 Q. Okay. This next one will be Exhibit 22 12. 23 MR. INABINET: 11. 24 MR. PANATIER: Oh, it's 11. 25

Page 134 1 (Money Deposition Exhibit No. 11 2 was marked for identification.) 3 BY MR. PANATIER: 4 Q. Have you seen that before, sir? 5 A. I have. 6 Q. Now, can you tell what the date of 7 that document is by looking at it? 8 A. No, but I've looked -- it looks as 9 if it's early '67. 10 Q. Right. It references some kind of 11 gold dates at the end -- 12 A. Correct. 13 Q. -- that are all '67? 14 A. Correct. 15 Q. And the first one is May, right? 16 A. Correct. 17 Q. Okay. So this is a proposal for a 18 research product, right? 19 A. Yes. 20 Q. Is this Foseco, Inc., in the U.S.? 21 A. Yes. 22 Q. All right. 23 A. I'm not -- wait a minute. I'm just 24 looking at the distribution. I don't know 25 without reading it. If I can get some	Page 136 1 Q. Okay. And here in '67, whichever 2 company -- Foseco company this is, is saying 3 they're still trying to develop one, right? 4 A. Yes. 5 Q. Okay. You can set that aside. 6 Sir, it is true that we've already 7 seen that Cape Asbestos and North American 8 Asbestos Corporation -- North American Asbestos 9 Corporation directly provided Foseco with 10 information about asbestos hazards. 11 MR. KADISH: Objection; asked and 12 answered. 13 THE WITNESS: Yes, they did. 14 BY MR. PANATIER: 15 Q. Johns Manville did as well, true? 16 MR. KADISH: Same objection. 17 THE WITNESS: Yes, they did. 18 BY MR. PANATIER: 19 Q. Okay. In fact, sir, you've seen in 20 Foseco's interrogatory answers in cases where 21 they have said they actually did receive 22 information from Johns Manville and a letter 23 from Johns Manville that they were placing 24 warnings on their bags? 25 A. Correct.
Page 135 1 indication. 2 Q. That's fine. Read as much as you 3 need to. 4 A. I don't recognize any of the 5 initials at the top, which was the copy 6 distribution. So I'm, I'm -- my initial 7 assumption is that it's an FIL document. 8 Q. Okay. That would be the 9 International? 10 A. Correct. Correct. 11 Q. Okay. Very -- just very briefly on 12 this document. They say that the general 13 object of the work plan for the future is to 14 develop an insulator which will possess as many 15 as possible of the following properties. And 16 the second one is asbestos-free, right? 17 A. That's correct. 18 Q. Okay. This is sometime in 1967, 19 best you can tell, right? 20 A. Yes. 21 Q. Now, FIL International has already 22 said there is a substitute for asbestos, 23 correct? 24 A. They have said there's -- there is 25 one, yes.	Page 137 1 Q. Okay. I want to show you that 2 letter. That is Exhibit 12. 3 (Money Deposition Exhibit No. 12 4 was marked for identification.) 5 BY MR. PANATIER: 6 Q. Sir, you've seen that letter before? 7 A. Yes. 8 Q. Okay. This is a letter from Johns 9 Manville. Now, they are a very large asbestos 10 supplier, correct? 11 A. Yes. 12 Q. What types of asbestos as of '68 13 were they supplying to Foseco? 14 A. None. 15 Q. They weren't supplying any at that 16 time? 17 A. No. 18 Q. All right. When did they start 19 supplying asbestos to Foseco? 20 A. When we started trying the product 21 in '63. 22 Q. Okay. They were supplying 23 crocidolite at that time? 24 A. Correct. 25 Q. And then they -- did Foseco purchase

Page 138 1 chrysotile from Johns Manville? 2 A. No. 3 Q. Okay. What types of asbestos was 4 Johns Manville supplying to amosite [sic] after 5 1968? 6 MR. INABINET: Objection. To 7 amosite? 8 THE WITNESS: We did not -- 9 MR. INABINET: Hold on, Chris. Your 10 question did not make sense. You asked 11 what Johns Manville was supplying -- 12 MR. PANATIER: Oh, yeah, that makes 13 no answer. Supplying to amosite. I don't 14 know even know what that means. Okay. 15 Yeah, I'll rephrase it because that was 16 truly one of those terrible -- and please 17 feel free to point those out whenever they 18 happen. 19 BY MR. PANATIER: 20 Q. Sir, after 1968, did Johns Manville 21 ever supply any asbestos to Foseco? 22 A. They did not supply any asbestos to 23 Foseco after late '64 I think it was. 24 Q. All right. However, they still sent 25 Foseco this letter, true?	Page 140 1 A. No. 2 Q. The second question is, when a hot 3 top is applied through clips or a pneumatic 4 nail gun to the inside of a mold, is all the 5 asbestos encapsulated so it doesn't come up or 6 create dust? 7 A. It's, it's bonded. So I don't see 8 -- I, I -- again, I'm not technically 9 qualified, but nailing a board in there would 10 -- it's still a bonded fiber. 11 Q. I guess my question is, have you 12 seen any research at all where someone said, 13 gee, if we shoot this board with a pneumatic 14 nail gun, is it going to create any asbestos 15 dust in the air? You're not aware of any? 16 A. I'm not aware, no. 17 Q. Sir, is the product still 18 encapsulated after the steel is poured and it's 19 disintegrated? 20 A. It's no longer asbestos. It's been 21 burned up. 22 Q. Well, sir, you know that's not true 23 because Foseco's own laboratory found 700 24 million fibers per pound of ash after that 25 process, correct?
Page 139 1 A. Yes, yes. 2 Q. All right. Foseco knew, based on 3 this letter, that Johns Manville was providing 4 a caution label on its bags of raw chrysotile 5 asbestos, true? 6 A. That's correct. 7 Q. And the caution said, "This bag 8 contains chrysotile asbestos fiber. Persons 9 exposed to this material should be" -- "should 10 use adequate protective devices as inhalation 11 of this material over long periods may be 12 harmful." Correct? 13 A. That's correct? 14 Q. At this time when this letter was 15 received by Foseco, did Foseco determine that 16 it should place a label on its finished 17 products? 18 A. No, because they weren't selling 19 asbestos. They were selling encapsulated 20 asbestos fibers in a bonded finished product. 21 Q. Okay. I'm going to object to 22 nonresponsive. 23 The first question is, at this time 24 did Foseco place a caution label pertaining to 25 asbestos on its products?	Page 141 1 A. That's what it says. I'm just -- 2 Q. That's what it says, right? 3 A. Yes. 4 Q. Are you aware of anything to the 5 contrary other than what Mr. Jago told you he 6 did? 7 A. No. 8 Q. Right. And by the way, the tests 9 that we looked at that showed 700 million 10 asbestos fibers per pound of ash of Profax, was 11 that after Mr. Jago said he did his test? 12 MR. INABINET: Objection. 13 MR. KADISH: Objection to form. 14 THE WITNESS: I'm not sure. 15 BY MR. PANATIER: 16 Q. Well, Mr. Jago said he did his test 17 in around '65, right? 18 A. Right. 19 Q. And the document we were looking 20 at -- 21 A. Was August of '65. 22 Q. -- was August of '65. 23 So later in '65, true? 24 A. It, it was in, in '65. 25 Q. Okay.

Page 142 1 A. I'm not sure when Jago did his test 2 in '65. 3 Q. Do you know whether or not Mr. Jago, 4 if he had done it before that test, ever 5 corresponded to those individuals and said, 6 whoa, whoa, whoa, I did a test; it doesn't show 7 anything? 8 A. I don't know of any document that 9 says that, no. 10 Q. Okay. Are you aware that any entity 11 of Foseco in the group wrote back to that 12 person and said that sounds crazy to us; we've 13 done tests that doesn't show any asbestos? 14 A. I've seen no document that says 15 that, no. 16 Q. The only document that we have about 17 any tests that Foseco did shows 700-plus 18 million fibers per pound of Profax ash, 19 correct? 20 MR. KADISH: Objection. 21 MR. INABINET: Objection. 22 THE WITNESS: That's what it says, 23 yes. 24 BY MR. PANATIER: 25 Q. Right. And so that would mean it's	Page 144 1 argumentative. 2 THE WITNESS: I, I can't make a 3 comment on that. 4 BY MR. PANATIER: 5 Q. Is asbestos dust encapsulated? I'll 6 ask you that question. 7 A. I'm not technically qualified. All 8 I'll telling you is what Foseco's understanding 9 was at the time. And based on Jago's test and 10 Jago doing it, he says that there was no 11 asbestos left after use of the finished product 12 in the steel mill. 13 Q. Well, it was Mr. Washburn who did -- 14 who reported what the laboratory did, right? 15 A. Yes. 16 Q. It certainly wasn't his 17 understanding that there was no asbestos left, 18 was it? 19 MR. KADISH: Objection; asked and 20 answered. 21 THE WITNESS: I can't make any more 22 comment. I'm not technically qualified to 23 discuss it. 24 BY MR. PANATIER: 25 Q. Sir, you're technically qualified to
Page 143 1 not encapsulated, correct? 2 MR. KADISH: Objection; form. 3 THE WITNESS: No, it's -- I'm 4 telling you my understanding of what 5 Foseco's interpretation was. The 6 interpretation based on that, Jago's, was 7 that there was no asbestos fibers remaining 8 after use. 9 BY MR. PANATIER: 10 Q. But the laboratory at Foseco showed 11 there were asbestos fibers remaining after use, 12 correct? 13 MR. KADISH: Objection; asked and 14 answered. 15 THE WITNESS: That's what the report 16 says. 17 BY MR. PANATIER: 18 Q. Right. And so what we have is 19 Foseco's laboratory finding asbestos fibers 20 after use. Can you agree that to the extent 21 they found asbestos fibers in the amount of 700 22 million per pound of ash, that that means that 23 after use the boards are no longer full of 24 encapsulated asbestos? 25 MR. KADISH: Objection;	Page 145 1 read his memo and you've done that, right? 2 A. I have, yes. 3 Q. And he was technically qualified to 4 report it; was he not? 5 A. Yes. 6 Q. Okay. And he reported the findings 7 of the laboratory which shows the number we've 8 been talking about. 9 A. Yes, he does. 10 MR. KADISH: Objection; asked and 11 answered. 12 BY MR. PANATIER: 13 Q. To your knowledge, no one within the 14 entire company, including Mr. Jago, at any time 15 said I think your numbers are wrong, correct? 16 A. I don't know whether anything was 17 said. All I'm telling you is I can't find any 18 document that, that says anything. 19 Q. Aware of no document that says those 20 numbers are incorrect, right? 21 A. Correct. 22 Q. It was certainly reported by both 23 the laboratory and then by Mr. Washburn that 24 there was free asbestos fibers in the used hot 25 top material after the metal had been poured,

Page 146 1 correct? 2 MR. KADISH: Objection; asked and 3 answered. 4 THE WITNESS: That -- that's what he 5 says, yes. 6 BY MR. PANATIER: 7 Q. I want to ask you, if free asbestos 8 fibers are released from a product, would you 9 agree that those are not encapsulated? 10 A. Can you repeat your question again? 11 Q. Sure, sure. Would you agree that if 12 free asbestos fibers are released from a 13 product, then that product is by definition not 14 encapsulated? 15 MR. KADISH: Objection; form. 16 THE WITNESS: Correct. 17 BY MR. PANATIER: 18 Q. Okay. Johns Manville goes on to say 19 in the following highlight, "Physical 20 protection for employees is provided through 21 the use of safety, hats, shoes, glasses, and 22 other devices when circumstances warrant. 23 Health protection is just as important and 24 should include appropriate practices and 25 equipment such as collectors, ventilators,	Page 148 1 A. Yes. 2 Q. Who's that? 3 A. He was the, as it says, product 4 manager for the Head system steel mill in FIL. 5 Q. Okay. Is that someone who's fairly 6 high up the chain that has the authority to 7 communicate with all the group members? 8 A. Well, he's the product manager. He 9 would -- he would circulate his report to a, a 10 -- he'd have a distribution list. 11 Q. Okay. The U.S. company was on that 12 list? 13 A. Yes. 14 Q. Obviously. Okay. 15 Go back to the first page. It says 16 -- the title of this bulletin in December 1969, 17 "Asbestos and Health: A Problem for Europe?" 18 This was the title of a one-day conference held 19 in London on November 13th organized by the 20 Asbestos Information Committee for an invited 21 audience. 22 Sir, do you -- you're familiar with 23 the Asbestos Information Committee, correct? 24 A. I wasn't, no. 25 Q. Not at that time?
Page 147 1 masks, et cetera, to prevent inhalation of 2 fumes and particulate matter." 3 Does Foseco agree with that 4 statement? 5 A. Yes. 6 Q. Okay. You can set that aside, sir. 7 MR. PANATIER: Are we on 13 now? 8 MR. INABINET: Yep. 9 MR. PANATIER: All right. 10 (Money Deposition Exhibit No. 13 11 was marked for identification.) 12 BY MR. PANATIER: 13 Q. Sir, that's a steelworks bulletin 14 dated December 1969. That is a Foseco 15 publication, correct? 16 A. It is a Foseco International 17 publication. 18 Q. Right. This is, again, something 19 that Foseco, Inc., in the U.S. would have 20 received, true? 21 A. Yes. 22 Q. Okay. What it says is -- well, 23 actually, let's go to the -- to the third page 24 marked 712 at the bottom. That's signed by 25 J.M. MacNair?	Page 149 1 A. No. 2 Q. All right. You are now, right? 3 A. I know about it now, yes. 4 Q. You have reviewed this document 5 before, true? 6 A. Yes. 7 Q. Okay. Do you agree that the 8 Asbestos Information Committee is a 9 counter-publicity unit to counter publicity 10 about asbestos dangers? 11 MR. KADISH: Objection; form. 12 THE WITNESS: Well, I, I -- I'm 13 reading his memo. He says that it was part 14 of our investigation about the use of 15 asbestos, and this was him attending one of 16 these meetings. 17 And the conclusion was that he 18 gained nothing except that -- I think one 19 of his words was it was a white, whitewash 20 job, that they were trying to say, hey, 21 there isn't a problem or a potential 22 problem when he, he was saying, yeah, there 23 probably is. 24 BY MR. PANATIER: 25 Q. So here's the question, though. He

Page 150 1 is attending a meeting of the Asbestos 2 Information Committee and he actually describes 3 it's a counter-publicity unit, right? 4 A. Yes. 5 Q. Okay. It goes on to say it's for an 6 invited audience. So presumably he was 7 invited, right? 8 A. If that's what he says. I didn't 9 read that, but -- 10 Q. It's the end of the first sentence. 11 Do you see that? 12 A. No. 13 Q. The, the end of the very first 14 sentence, he says, "...for an invited 15 audience." 16 A. Show me. 17 Q. Okay. Sure. I'll, I'll put an 18 arrow on it. 19 A. Oh, end of the first sentence. I 20 was looking at paragraph. I apologize. 21 Q. It's okay. It's all right. You 22 speak the Queen's English. 23 A. Yes. 24 Q. Okay. "The delegates were chosen 25 from companies selling asbestos or buying	Page 152 1 chairman said, right? 2 A. Correct. 3 Q. Okay. Then he goes on to his 4 evaluation of it or his report of it on page 2. 5 And there's a highlight there, where it says 6 the council, and he's talking about the 7 asbestos -- "Asbestosis Research Council has 8 set up various environmental study groups to 9 look into special industry sectors, vis," that 10 means vis-a-vis, "building and shipbuilding, 11 electrical and engineering, dock handling and 12 textile weaving." 13 First, did I read that right? 14 A. Yes. 15 Q. Then in parentheses he says, "NB" -- 16 do you know what that means? 17 A. Yes. 18 Q. What does that mean? 19 A. It means nota bene. It means -- 20 it's Latin for take note. 21 Q. Oh, okay. You learn something every 22 day. 23 So he says in parentheses, "I asked 24 the chairman of the Environmental Control 25 Committee privately if any study was planned
Page 151 1 asbestos for use in products for subsequent 2 resale and the author attended on behalf of the 3 Foseco group. There were no representatives 4 from the press or from the ultimate user 5 industries." 6 So this was clearly just the 7 manufacturers, correct, sir? 8 A. Correct. 9 Q. All right. "Approximately 97 10 percent of the delegates were from companies 11 concerned with the direct marketing of asbestos 12 fiber with a breakdown by major countries as 13 follows." And he breaks it down. 14 The next paragraph says, "The 15 objective of the conference was stated by the 16 chairman in his opening remarks, to discuss the 17 facts relating asbestos and health, especially 18 in the light of recent uninformed and 19 oversensationalized comments in the press and 20 on television, this problem and its effect on 21 the marketing of asbestos fibers has occurred 22 first in the U.K., but there is no doubt that 23 similar pressure will soon be excerpted in 24 other countries." 25 And he's just quoting what the	Page 153 1 for the steelworks industry. He said no and 2 was apparently quite unaware that asbestos 3 occurred in steelworks at all." 4 Now, do you know whether or not this 5 gentleman who attended on behalf of Foseco 6 said, well, it does. There's a lot of asbestos 7 used in the steelworks industry? Do you know? 8 MR. KADISH: Objection; form. 9 THE WITNESS: Well, I don't know 10 whether he did or not. It doesn't say. 11 BY MR. PANATIER: 12 Q. He did not report that he did? 13 A. No. 14 Q. Correct? 15 He did not report that he set them 16 straight on that, right? 17 A. No. 18 MR. INABINET: Objection. 19 BY MR. PANATIER: 20 Q. All right. "2, Publicity and Public 21 Relations." "Starting in 1966 there have been 22 increasingly sensational disclosures by the 23 British press on the health hazards of 24 asbestos, culminating in a highly provocative 25 television program by the BBC to counter this

Page 154 1 on behalf of the U.K. asbestos industry. The 2 Asbestos Information Committee was formed in 3 1966 who employed a professional public 4 relations firm to assure the public and publish 5 factual information on the problem." 6 Did I read that right? 7 A. Yes, you did. 8 Q. "Conclusions." We'll skip right to 9 the end. "It may" -- well, what he says is 10 "There are health risks associated with the 11 handling and use of asbestos, particularly blue 12 asbestos, nearly all of which can be eliminated 13 or strictly reduced by sensible and responsible 14 precautions on the part of management and 15 individual workers. The awareness of this and 16 the most" -- 17 A. I'm sorry. I'm trying to -- I'm 18 lost. 19 Q. It's not highlighted. It's at the 20 start of conclusions. 21 A. Okay. 22 MR. INABINET: Last paragraph. 23 THE WITNESS: Let me read again then 24 with you. Go ahead. 25	Page 156 1 will depend most likely on the activities of 2 the press and television companies. But if the 3 U.K. is anything to go by, this can have an 4 effect far beyond that justified on medical 5 evidence alone." 6 Well, what's he -- what medical 7 evidence is he talking about there? 8 A. I don't know. 9 Q. All right. All right. And you can 10 see on the next page he's got a note. It says 11 A? 12 A. Yes. 13 Q. "Asbestos Information Committee 14 formed in 1966 by a syndicate of the three 15 major U.K. asbestos suppliers, e.g., Cape 16 Asbestos," who Foseco used to get fiber from, 17 right? 18 A. This is the U.K. I don't -- I think 19 -- I don't know where we got -- we bought from 20 Cape Asbestos. I assume it's the same company. 21 Q. Foseco, Inc., got asbestos from 22 Cape? 23 A. From Cape Asbestos, correct. 24 Q. Turner Newall and the Central 25 Asbestos Company, Limited, they employ
Page 155 1 BY MR. PANATIER: 2 Q. Sure. "The awareness of this and 3 the importance attached to it in other 4 countries will depend most likely on the 5 activities of the press and television 6 companies. But if the U.K. is anything to go 7 by, this can have an effect far beyond that 8 justified on medical evidence alone. It may or 9 may not erupt in Europe or elsewhere, and the 10 chairman closed by advising asbestos suppliers 11 in Europe to form a counter-publicity unit such 12 as the Asbestos Information Committee in the 13 U.K." 14 Now, that's the committee meeting he 15 was attending, correct? 16 A. That's correct. 17 Q. And he puts that under his 18 conclusions. He doesn't actually say he 19 disapproves of what they were doing; does he? 20 A. He, he doesn't make any comment at 21 all. He's just reporting what they said. 22 Q. Okay. He does say, though, that the 23 attention -- it was the second-to-last 24 sentence. "The awareness of this and the 25 importance attached to it in other countries	Page 157 1 Messrs. Hill & Knowlton, Limited, as public 2 relations advisors. 3 And he described this, as we saw in 4 the first page -- or I'm sorry. I'll reference 5 it to you directly, if I can find it -- as a 6 counter-publicity unit, right? 7 A. Yes, that's correct. That's what he 8 did say. 9 Q. Okay. What fees or donations or 10 membership costs did Foseco put into the 11 Asbestos Information Committee? 12 A. None that I'm aware of. 13 Q. What about the Foseco group as a 14 whole? 15 A. No. 16 Q. You don't know? 17 A. No. 18 Q. Okay. He was an invited member of 19 that meeting. Do you know if he had to pay to 20 go? 21 MR. KADISH: Objection; form. 22 THE WITNESS: I have no idea. 23 BY MR. PANATIER: 24 Q. All right. You can set that aside, 25 sir.

Page 158 1 This next one will be Exhibit 14. 2 (Money Deposition Exhibit No. 14 3 was marked for identification.) 4 BY MR. PANATIER: 5 Q. Sir, have you seen this document 6 before? 7 A. Yes. 8 Q. All right. This is a document from 9 Foseco, Inc., correct? Or I'm sorry. 10 A. I'm not sure. 11 Q. This is -- no, this is Foseco 12 International. It's on the last -- very last 13 page. You can see it says, "Report on visit to 14 Europe, Foseco International, Limited," right? 15 A. Yeah. 16 Q. And it's by D.P. Helliwell. 17 A. Yeah. 18 Q. Do you know who that is? 19 A. Yes. 20 Q. Who is that? 21 A. Derrick Helliwell. 22 Q. What was, what was his title? 23 A. I don't know. He was an FIL person 24 again. 25 Q. Is this something that would have	Page 160 1 Proflex were the asbestos-containing and 2 Kalflex was nonasbestos-containing, true? 3 A. Correct. 4 Q. It says, "Foseco International terms 5 of reference were to develop a flexible-type 6 Profax free from asbestos because of asbestosis 7 and the industrial legal questions arising from 8 its use in both England and Europe. They 9 subsequently developed from Proflex as we know 10 it to Kalflex, a duplex system free from 11 asbestos." 12 So they developed -- instead of 13 using Proflex, they developed basically a 14 substitute material that did not contain 15 asbestos, true? 16 A. They did. 17 Q. When did Kalflex become available in 18 the U.S.? 19 A. They, they took the recipe and, and 20 tried to make it work. And, again, it was 21 unsuccessful. 22 Q. Why it was it unsuccessful? 23 A. I don't know. 24 Q. Okay. So we've seen successful 25 asbestos-free recipes in Australia, right?
Page 159 1 gone to the U.S.? 2 A. Yes. 3 Q. Okay. If we go to the first part, 4 it says, "Report on visit to Europe August 27th 5 through 31st, 1970, Foseco International, 6 Limited." And it says, Profax, Proflex, and 7 Kalflex. 8 Now, those are all 9 asbestos-containing hot top materials, correct? 10 A. No. 11 Q. Okay. Which one's not? 12 A. Kalflex. 13 Q. Okay. Was Kalflex ever an asbestos- 14 containing material? 15 A. It was never an asbestos-containing 16 material. 17 Q. All right. It was always -- what 18 was that? 19 A. It was a duplex where they took -- 20 I'm not sure of the ingredients. But they took 21 a lining of one product and the outer faces 22 with another. It was a dolomite refractory 23 type. 24 Q. And I'm sorry. It actually says 25 here it does not have asbestos. So Profax and	Page 161 1 A. At that point in time. 2 Q. Right. Actually, that was '67. 3 A. Yeah, I know. I'm saying -- but it 4 was then -- I don't know whether the -- when 5 the report was written they were saying they've 6 never used it since, but I don't know whether 7 they used asbestos-containing Profax after '67. 8 Q. You mean asbestos-containing 9 Proflex. 10 A. Profax. 11 Q. Are we getting mixed up? 12 A. Yeah. 13 Q. Here's my question. My question is, 14 we know as of 1967 the Australian member of the 15 group had not needed asbestos for at least a 16 few years. They were using the wheat flour 17 bonded Profax, right? 18 A. That's correct. 19 Q. Okay. Here we know that at least 20 with regard to Europe they are using an 21 asbestos-free version of Proflex, correct? 22 A. They were trying it, yes. 23 Q. Okay. All right. And if you look 24 at the next highlight, it says, "Although the 25 raw material costs of Kalflex is higher than

Page 162 1 current Profax 20, it is found in practice that 2 a quicker dewatering cycle can be achieved even 3 with two sluices as production rate is 4 increased and dry scrap reduced to a minimum. 5 It is felt that the increased raw material cost 6 balances out with current production." 7 So to paraphrase, they're saying the 8 raw material in the asbestos-free Kalflex may 9 be higher; but due to how it's handled, the 10 overall use of the material may decrease costs. 11 MR. KADISH: Objection; form. 12 THE WITNESS: It's, it's another one 13 where we're looking at trying to develop 14 asbestos-free product. And this is another 15 way of, of approaching it. And they're 16 making comments on technical aspects as 17 well as cost aspects. 18 BY MR. PANATIER: 19 Q. All right. If your turn to the page 20 marked 720 at the bottom. 21 A. Yep. 22 Q. It's, again, talking about Profax, 23 Proflex, and Kalflex. And it says, "The need 24 for an asbestos-free recipe capable of 25 withstanding rim stabilized grades is of	Page 164 1 A. Yes, you did. 2 Q. Did Foseco ever go out and buy 3 Ferro's board? 4 A. I don't know whether they did or 5 not. 6 Q. Did -- certainly, if you're trying 7 to develop an asbestos-free board as of this 8 time -- I mean, I never worked for Foseco, but 9 I might say let's go buy their board and see 10 what's in it. Do you think that would be 11 reasonable? 12 A. Yes. 13 MR. KADISH: Objection; form. 14 BY MR. PANATIER: 15 Q. Do you know if they ever did it? 16 A. I don't know whether they did in 17 this case, no. 18 MR. INABINET: This is 1970? 19 MR. PANATIER: Yeah, '70. 20 BY MR. PANATIER: 21 Q. Do you know what the ingredients 22 were in the Ferro board that was being supplied 23 at that time? 24 A. No. 25 Q. Okay. Ferro was a U.S. competitor
Page 163 1 paramount importance to the continuation of 2 business of Foseco, Limited." 3 A. Right. Yes. 4 Q. Now, it says the need for 5 asbestos-free is of paramount importance to the 6 continuation of business. It doesn't say of 7 paramount importance to health of the users, 8 does it? 9 A. It does not. 10 Q. This is the fourth or fifth 11 reference we've seen to the ability to sell it, 12 to cost, et cetera; isn't it? 13 A. Yeah, but, again, these are 14 technical reports. 15 Q. I understand. 16 A. They're not commercial reports. 17 Q. Right. These are technical reports 18 talking about the cost, right? 19 A. Correct. 20 Q. "To date, the results are promising, 21 but they have a good competitor in the shape of 22 London Scandinavian, Ferro Engineering, who are 23 currently supplying a very hard asbestos-free 24 board." 25 Did I read that right?	Page 165 1 of Foseco, true? 2 A. Correct. 3 Q. Do you have knowledge of when Ferro 4 started supplying asbestos-free hot tops in the 5 U.S.? 6 A. I'm not sure of the date, no. 7 Q. Was it earlier than or later than 8 Foseco? 9 A. My understanding is that on their 10 boards it was earlier, but they were still 11 supplying asbestos-containing hot top material 12 after we went asbestos-free. 13 Q. Okay. So Ferro was earlier to 14 provide a nonasbestos material in certain 15 applications? 16 A. Correct. 17 Q. But they were later in terms of they 18 continued to sell asbestos-containing hot top 19 material at a later date than Foseco, right? 20 A. Correct. 21 Q. Okay. Well, let me ask you this. 22 When they first started supplying -- when Ferro 23 first started supplying a nonasbestos hot top 24 in the U.S., did Foseco go and try to determine 25 what they were using so they could sell a

Page 166 1 similar product? 2 A. Yes. We, we analyzed -- we did not 3 buy the boards, but we got them from the steel 4 mill and analyzed them. 5 Q. You did analyze them. And what did 6 you learn? 7 A. It, it -- there is a memo that shows 8 some of the composition. But also on, on one 9 of them, we -- it had asbestos in it. 10 Q. It was a nonasbestos one that had 11 asbestos in it? 12 A. Yes. 13 Q. Okay. And you know that because 14 why? 15 A. They did the analysis of the board. 16 Q. Foseco did the analysis? 17 A. Yes. 18 Q. Okay. And that's one of the things 19 we talked about earlier. There were certainly 20 ways during this period of time, if you wanted 21 to analyze a competitor's board, you could find 22 out what was in it? 23 A. Yes. 24 Q. You could do it to them; they could 25 do it to you?	Page 168 1 but someone corrected me. 2 What they are reporting here is that 3 when you compare 1971 to 1969, they're using 4 considerably more amosite asbestos, correct? 5 MR. KADISH: Objection; form. 6 THE WITNESS: Yes, they are. 7 BY MR. PANATIER: 8 Q. The minimum went from 75,000 pounds 9 per month to 95,000 pounds per month, true? 10 A. Yes. 11 Q. And the maximum amount went from 12 120 million pounds per month to 150 million 13 pounds per month, right? 14 A. Thousands. 15 Q. I'm sorry. 150,000 pounds per 16 month, correct? 17 A. Correct. 18 Q. What does "this is exclusive of the 19 50,000 pound patio supply" mean? 20 A. There was a, a reserve quantity that 21 they start on the patio as a reserve in case 22 they were running short of asbestos to use in 23 the product. 24 Q. So this was just in case they 25 couldn't get the asbestos in, they had to use
Page 167 1 A. Yes. 2 Q. Okay. That's everything in that 3 memo. You can set that aside. 4 This next one is Exhibit 15. 5 (Money Deposition Exhibit No. 15 6 was marked for identification.) 7 BY MR. PANATIER: 8 Q. Sir, you've seen this before? 9 A. Yes. 10 Q. This is a Foseco, Inc., memo. This 11 is the U.S. company, right? 12 A. Correct. 13 Q. It's dated February 24th, 1971, and 14 the subject is "RM265A asbestos." That's 15 amosite, right? 16 A. Correct. 17 Q. Okay. What it says is, "Our 18 asbestos consumption this year is averaging 19 188,000 pounds per month versus the 1969 20 average of 123,000 pounds per month." Right? 21 A. Correct. 22 Q. The M next to it means thousands, 23 right? 24 A. Correct. 25 Q. I used to think that was millions,	Page 169 1 it as a surplus kind of? 2 A. Correct. 3 Q. Okay. So during this time, we've 4 already seen several memos where Foseco has -- 5 either Foseco International or Foseco, Inc., 6 has said we need to find asbestos substitutes, 7 right? 8 A. Yes. 9 Q. Okay. But during this whole time, 10 at least when it comes to Foseco, Inc., in the 11 U.S., the asbestos consumption is increasing, 12 right? 13 A. Yes, it is. Yes. 14 Q. All right. You can set that aside, 15 sir. 16 (Money Deposition Exhibit No. 16 17 was marked for identification.) 18 BY MR. PANATIER: 19 Q. Next we have Exhibit 16. Sir, 20 you've seen that document before? 21 A. Yes. 22 Q. This is two days after the one we 23 looked at. The one we looked at was February 24 24th. 25 A. All right.

Page 170 1 Q. This is now February 26th, 1971. 2 This is to Mr. Jago from Mr. Bilton, both 3 individuals who we've spoken about, true? 4 A. Yes. 5 Q. And what he says is, "Please see the 6 attached letter from Gerry Morgan at North 7 American Asbestos. Also, the 2/24/71 memo from 8 Bill Brenner, from which it appears that we 9 shall be using in the Cleveland plant alone 10 around 1,200 tons this year." 11 And they're talking about RM265A, 12 which is amosite asbestos, right? 13 A. That's correct. 14 Q. Okay. Just, just go ahead and skip 15 down to the next highlight. It says, "In view 16 of Bill Brenner's forecast of approximately 17 1,200 tons for the Cleveland plant alone," it 18 says, "versus your projection of 800 tons for 19 Cleveland and Chicago combined, it will no 20 doubt be necessary for us to use every grade we 21 can, and for that reason I am sure that you 22 will want to see whether official approval can 23 now be given to the S44 grade, although I 24 understand from Jerry Morgan this will not be 25 available until around September."	Page 172 1 Q. And generally speaking, Foseco's 2 business bared a direct relationship to how 3 much steel was being made in the U.S., right? 4 A. Correct. 5 Q. Next will be Exhibit 17. 6 (Money Deposition Exhibit No. 17 7 was marked for identification.) 8 MR. INABINET: Chris? 9 MR. PANATIER: Yes. 10 MR. INABINET: Can I get you to make 11 that a little more clearer? 12 MR. PANATIER: A nicer 6. 13 MR. INABINET: A nicer 6. 14 MR. PANATIER: Sure. 15 BY MR. PANATIER: 16 Q. This is Exhibit 17. Sir, this as 17 June 7th, 1971, communication from North 18 American Asbestos Corporation to Foseco, Inc., 19 in Cleveland, right? 20 A. Correct. 21 Q. And the context is -- North American 22 Asbestos Corporation was telling Foseco we 23 can't ship two tons of grade S44 amosite that 24 you asked for, right? 25 A. Correct.
Page 171 1 What he's saying there is they've 2 increased beyond their projection of 800 tons 3 for the Cleveland plant and Chicago plant 4 combined. They're at 1,200 tons for Cleveland 5 alone, right? 6 A. Yes. 7 Q. And they're going to have to start 8 using other grades of amosite just to fulfill 9 their needs, right? 10 A. That's exactly what he says. 11 Q. And he says it may not even be 12 available. 13 A. Correct. 14 Q. Right. Okay. 15 Can you, can you say based on your 16 historical knowledge of Foseco during this 17 time, was this a period where they were using 18 more amosite asbestos than they ever had or was 19 this simply another peak in 1971? 20 A. It was a combination of two. We, we 21 were using more amosite and we were supplying 22 the customers, but at that time the steel 23 production in the U.S.A. was at a high level. 24 So there was an increased product -- production 25 at the steel mills.	Page 173 1 Q. Skip to the end. He says, "We 2 understand production costs have increased 3 somewhat and the current indication is that the 4 price of this material will be 210 per metric 5 ton." 6 That usually means free on board, 7 right? 8 A. Correct. 9 Q. FOB? 10 A. Yes. 11 Q. "Vessel, Port of Philadelphia." So 12 it comes into Philadelphia, right? 13 A. Yes. 14 Q. And they are paying \$210 per ton for 15 this amosite? 16 A. Yes. 17 Q. How much did the regular grade they 18 used cost? 19 A. I have no idea. 20 Q. All right. So for every ton of 21 asbestos, it costs -- at least for this S44, it 22 costs \$210? 23 A. Correct. 24 Q. Okay. You can set it aside, sir. 25 This will be the last document and then we'll

Page 174 1 take a quick break for a bite or whatever. 2 (Money Deposition Exhibit No. 18 3 was marked for identification.) 4 BY MR. PANATIER: 5 Q. This will be Exhibit 18. Sir, do 6 you see that this is a memo from J.M. MacNair 7 to Dr. Phoenix at Foseco, Inc.? 8 A. Yes. Yes. 9 Q. It's dated the 2nd day of July, 10 1971, right? 11 A. Right. 12 Q. Okay. It's got a one-word subject, 13 and it is "Asbestos"? 14 A. Correct. 15 Q. Okay. So if you go to the 16 highlight, he says, "Secondly, the asbestos 17 industry itself has set up various bodies to 18 defend its own position and produce" -- "and 19 produce responsible counter-attacks to the 20 scare mongers. The main supplier of asbestos" 21 -- and I guess -- I'm sorry. Let me start 22 over. 23 "The main suppliers of asbestos have 24 formed the Asbestos Information Committee, 25 which is mainly a public relations function	Page 176 1 A. That's correct. 2 Q. That's when someone says, oh, you're 3 just whitewashing it. That's what that means? 4 A. Yes. 5 Q. Okay. Go ahead and turn to the next 6 page. "You ask if there is any group in the 7 U.K. that could perform the sort of research 8 that would help us to defend our continuing use 9 of asbestos in hot tops, and here I must 10 certainly agree with you that there is no known 11 material at the moment which gives the same 12 cost-effectiveness in hot tops as asbestos." 13 Did I read that right? 14 A. Yes, you did. 15 Q. Okay. This is yet another reference 16 we're seeing to the cost of a substitute for 17 asbestos, right? 18 A. That is correct. 19 Q. Okay. If you look at the next 20 highlight: "My own feeling is that to sponsor 21 any additional research into this field is 22 unlikely to be productive except on the purely 23 public relations whitewashing aspect that by 24 spending all this amount of money we could 25 prove to our customers that we are responsible
Page 175 1 employing undoubtedly high-powered public 2 relations consultants. This is a whitewashing 3 job." 4 This is what you referred to 5 earlier, right? 6 A. Yes. 7 Q. Another gentleman from Foseco 8 International attended an Asbestos Information 9 Committee meeting before, right? 10 A. No, it was the same one. 11 Q. It's this, this same guy? 12 A. Yes. 13 Q. I'm sorry. He is reporting about 14 his experience with the Asbestos Information 15 Committee. 16 A. Yes. 17 Q. Right. And he's saying that the -- 18 basically they're putting out 19 counterpropaganda, right? 20 A. Correct. 21 Q. Okay. And he calls it a 22 whitewashing job. That's what that means? 23 A. Yes. 24 Q. All right. You're trying to make 25 something look better than it is, right?	Page 177 1 suppliers." 2 So he's putting that out there as an 3 option. Is he, is he advocating it, or is he 4 saying we shouldn't do this? 5 A. No. He's, he's saying that is one 6 option, but that's not what we did. 7 Q. Right. Did he say we shouldn't do 8 it? 9 A. No. 10 Q. Okay. "I think that the evidence at 11 the moment is that degradation of product 12 certainly above 700 degrees celsius are not 13 harmful, though we must be" -- 14 A. Where are you now? 15 Q. I'm sorry. The next highlight. 16 Yes, sir. I'm sorry. 17 "I think the evidence at the moment 18 is that the degradation products certainly 19 above 700 degrees Celsius are not harmful, 20 though we must be prepared to face the argument 21 that the temperature at the back of Profax 22 tiles in many applications does not rise above 23 400 degrees Celsius and, hence, the breakdown 24 products here will be borderline. The real 25 problem is that since people don't know exactly

Page 178 1 what parameter of asbestos causes the hazards 2 in the first place, it is impossible to check 3 whether these are deduced or removed at higher 4 temperatures, except by these long, drawn-out, 5 and inconclusive tests on animals." 6 So my question there is here he's 7 saying there may be some degradation of the 8 ingredients in Profax by virtue of the heat, 9 right? 10 A. Yes. 11 Q. And he's saying where it's closest, 12 closest to the molten steel -- or molten metal, 13 you would expect higher degradation than where 14 it's further, correct? 15 A. He's saying that it would be at the 16 700 C and he's raising a question mark that 17 there could be -- it needs further looking at 18 at the 400 C where it's -- the board isn't next 19 to the ingot mold. 20 Q. Right. Where it's further from the 21 molten steel, right? 22 A. Correct. 23 Q. Now, do you know whether or not this 24 man had seen the memo where they actually 25 analyzed the dust from the used hot tops?	Page 180 1 of Tape No. 3 of the videotaped deposition 2 of Anthony Money. The time is 3 approximately 1:01 p.m. We are going off 4 the video record. 5 (Lunch recess.) 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25
Page 179 1 A. Phoenix joined in 1967 and 2 Washburn's report was August 1965. So he was 3 not there when Washburn report was published. 4 But it was there in the information available. 5 Q. Okay. He doesn't reference that 6 report in this memo, correct? You know that? 7 A. Right. 8 Q. Right? 9 A. Correct. 10 Q. "The real problem is that since 11 people don't know exactly what parameter of 12 asbestos causes the hazards in the first place, 13 it is impossible to check whether these are 14 reduced or removed at higher temperatures, 15 except by these long, drawn-out, and 16 inconclusive tests on animals." 17 And what he's saying there is 18 basically we don't know what level of asbestos 19 exposure causes disease, right? 20 A. Yes, he is. 21 MR. PANATIER: Okay. We should 22 probably go ahead and go off the video. 23 We'll finish this document when we come 24 back from our break. 25 THE VIDEOGRAPHER: This is the end	Page 181 1 AFTERNOON SESSION 2 THE VIDEOGRAPHER: We're back on the 3 video record at 1:38 p.m. with Tape 4. 4 BY MR. PANATIER: 5 Q. All right. Actually, sir, we're 6 done with that memo. We can set that aside. 7 All right. This next one is No. 19. 8 (Money Deposition Exhibit No. 19 9 was marked for identification.) 10 BY MR. PANATIER: 11 Q. Sir, is that a letter dated February 12 23rd, 1972? 13 A. Correct. 14 Q. That's from Foseco, R.W. Ruddle -- 15 A. Yes. 16 Q. -- vice president of technology, to 17 Doug Pritchard, Robert A. Barnes, Inc. 18 Do you know who that is? 19 A. Yes. 20 Q. Who is that? 21 A. It's one of our customers. 22 Q. Okay. So this is Foseco writing to 23 a customer? 24 A. Yes. 25 Q. Okay. He says, "Dear Mr. Pritchard,

Page 182 1 Your letter of February 16 in regard to the 2 asbestos content of Kalminex sleeves has been 3 passed to me for reply." 4 What are Kalminex sleeves? 5 A. Kalminex sleeves are foundry 6 products. 7 Q. What types of foundry products are 8 they? 9 A. They're used in the treatment of 10 molten metal, similar on a smaller scale to the 11 hot topping of ingots. 12 Q. All right. "The answer to your 13 question is that Kalminex 3402B contains 14 approximately 9 percent of asbestos, and 15 Kalminex 3959 contains approximately 8 percent 16 of asbestos. This information is of course 17 confidential, and anyone to whom it is revealed 18 must first assure you that it will be held in 19 strict confidence. I trust this information is 20 sufficient for your purpose, but if I can of 21 further help, please let me know." Signed R.W. 22 Ruddle at Foseco. 23 So apparently this guy wanted to 24 know how much asbestos was in Kalminex, right? 25 A. Correct.	Page 184 1 A. Yes. 2 Q. And it is written directly to Ted 3 Jago. 4 A. Yes. 5 Q. Now, it's dated March 24th, 1972. 6 And Mr. Mellodey, who is he? 7 A. He was a technical person at FIL. 8 Q. All right. And he's writing another 9 technical person at Foseco, Inc., right? 10 A. Correct. 11 Q. So Mr. Mellodey writes to Mr. Jago. 12 He says, "Dear Ted, Many thanks for your 13 heartwarming news, as it was the sort of Easter 14 egg I could well do without." 15 What, what was the heartwarming 16 news? 17 A. I don't know. 18 Q. All right. Well, the next 19 sentence -- and he says, "It is the sort of 20 Easter egg I could well do without." I guess 21 it was around Easter? 22 A. Yes. 23 Q. "As you know, I planned to spend 24 quite a lot of time on asbestos replacement; 25 but towards the second half of the year, as we
Page 183 1 Q. And Foseco told him but told him he 2 had to keep it in strict confidence, right? 3 A. Yes. 4 Q. Okay. Again, the asbestos content 5 in Kalminex, if one of your competitors wanted 6 to know it, they could just get ahold of some 7 and test it, right? 8 A. Yes, but they'd have to go through 9 that, and we wanted to make sure that we didn't 10 really -- release ingredients of our recipes 11 without taking proper precautions. 12 Q. By the way, did the word "asbestos" 13 ever appear on any hot top product sold by 14 Foseco up until 1972? 15 A. No. 16 Q. Okay. Sir, you can set that aside. 17 Next will be Exhibit 20. 18 (Money Deposition Exhibit No. 20 19 was marked for identification.) 20 BY MR. PANATIER: 21 Q. Sir, this is a Foseco International 22 memo. You've seen that, right? 23 A. Yes. 24 Q. This is to Foseco, Inc., in 25 Cleveland, right?	Page 185 1 agreed, during our last chat, that was" -- let 2 me start over. 3 "As you know, I planned to spend 4 quite a lot of time on asbestos replacement; 5 but towards the second half of the year, as we 6 agreed during our last chat, that the 7 regulations wouldn't bite until after 1973. So 8 this puts us in something of a quandary as it 9 leaves us two months of maximum workload to 10 achieve an objective which as we both know is 11 exceedingly difficult." 12 So let's pause there. They knew 13 that OSHA was going to go into effect in June 14 of 1972, right? 15 MR. KADISH: Objection. 16 THE WITNESS: I'm not sure when the 17 effective date of OSHA, but around that 18 time period, yes. 19 BY MR. PANATIER: 20 Q. All right. They're talking about 21 the advent of OSHA? 22 A. I don't know. 23 MR. KADISH: Objection. 24 BY MR. PANATIER: 25 Q. You don't know?

Page 186 1 A. I don't -- I'm assuming that, but I 2 don't know for sure. 3 Q. Okay. These two guys had talked, 4 Mr. Jago and Mr. Mellodey, and apparently they 5 had determined that regulations wouldn't bite 6 until after 1973, right? 7 A. That's what it says. 8 Q. And that -- in kind of layperson's 9 terms, that means either it wouldn't go into 10 effect or it wouldn't have any type of effect 11 on us until after 1973, right? 12 MR. KADISH: Objection; form. 13 THE WITNESS: I don't know what he 14 means. 15 BY MR. PANATIER: 16 Q. Okay. Well, he said they wouldn't 17 bite. Biting is typically a negative 18 connotation; wouldn't you agree? 19 MR. KADISH: Objection. 20 THE WITNESS: Don't know. It 21 probably is, yes. 22 BY MR. PANATIER: 23 Q. Okay. And he's saying that he had 24 planned a lot of time -- he had planned to 25 spend a lot of time on an asbestos replacement	Page 188 1 A. He was one of the people involved. 2 I don't think he was the only one, no. 3 Q. Okay. But he's one of the people 4 involved, and he is saying "we hope to be able 5 to start work on the replacement program," 6 right? 7 A. That's what he's saying, yes. 8 Q. Which means he and the we he's 9 talking about had not started on it? 10 A. Correct. 11 Q. Okay. This is now seven years into 12 the commercial sale of asbestos-containing hot 13 tops in the U.S., correct? 14 A. Correct. 15 Q. You can set that aside. 16 Next we have Exhibit 21. 17 (Money Deposition Exhibit No. 21 18 was marked for identification.) 19 BY MR. PANATIER: 20 Q. Sir, do you see this is a memo from 21 Mr. Jago to Mr. Phoenix? 22 A. Yes. 23 Q. April 4th, 1972, this is just a 24 little bit past that last memo we looked at 25 from March. The subject is toxicity of Profax,
Page 187 1 but had sort of put it on the back burner 2 because of when they thought the regulations 3 would bite, correct? 4 A. Or other projects that he had going, 5 going on as well. 6 Q. Right. He says, "However, we hope 7 to be able to start work on asbestos 8 replacement in the third week in April, but at 9 present moment I cannot give you a firm date 10 for completion as you will, I hope, 11 appreciate." 12 So at least what he's saying is if 13 he's going to start on an asbestos replacement, 14 that suggests he had not started, correct? 15 A. This particular person hadn't, no. 16 Q. Okay. And what was -- what products 17 was that person responsible for? 18 A. He, he was responsible for the 19 Profax, Proflex. 20 Q. That were sold in the U.S.? 21 A. No, worldwide. 22 Q. Okay. Worldwide. Okay. 23 So Mr. Mellodey is responsible for 24 the worldwide asbestos replacement program for 25 Profax and Proflex?	Page 189 1 Proflex, and how do you say that? Ferric? 2 A. Ferric. 3 Q. Ferric ingredients. What is ferric? 4 A. It's the anti-piping exothermic 5 topping compound put on the ingot mold. So 6 there will be Profax boards around here, and on 7 the top of it, it would be an exothermic 8 powder. 9 Q. And this powder, did it ever have 10 asbestos in it? 11 A. No: 12 Q. "Introduction: Recently much has 13 been written in various memoranda about the 14 potential dangers of asbestos and the necessity 15 of removing it from our insulator formulations. 16 I do not believe, however, that anyone who has 17 been involved has really realized the magnitude 18 of the problems created by OSHA (1970) and the 19 EPA, for it is not simply asbestos that is the 20 problem, but possibly every ingredient that we 21 currently employ in our Profax, Proflex, and 22 ferric formulations, for any dust or 23 fume-producing material are now suspect and 24 every chemical substance are ultimately to be 25 controlled."

1 So this is a reference to OSHA and
2 it has 1970 in parentheses? Do you see that?

3 A. Yes.

4 Q. And do you understand that that's
5 when OSHA was passed?

6 A. I, I don't know for sure but that's
7 the time frame that I assumed it was, yes.

8 Q. Okay. "Problem. Of immediate
9 concern to the SMPD division." What's that?

10 A. Steel mill products division.

11 Q. All right. So steel mill products
12 would certainly include hot tops?

13 A. Yes.

14 Q. "Of immediate concern to the SMPD
15 division are the federal regulations recently
16 issued governing asbestos. State laws already
17 exist in New York and which could outlaw
18 products containing more than 5 percent
19 asbestos after 1st of June 1972. Also of
20 immediate concern are the rules now being
21 proposed for silica which are proposed to been
22 effective in December 1972. These two
23 ingredients make up 80 to 90 percent of the
24 material currently formulated into Profax and
25 Proflex."

1 There was a lot more silica in those
2 products than there was asbestos, right?

3 A. Oh, yes. A lot more, yes.

4 Q. Okay. All right.

5 Skip a paragraph. Here is what it
6 says. "As the Profax, Proflex, ferric heading
7 products make up a total of \$12 million of
8 Foseco sales, it obviously is imperative to get
9 action on alternative materials immediately."

10 Did I read that right?

11 A. Yes.

12 Q. He cites here the reason for
13 substitutes is they want to continue to sell
14 these products, right?

15 A. They're saying that there's
16 \$12 million of business that they have in the
17 hot topping area, which includes the, the
18 ferric. And we, we need to start working
19 harder.

20 Q. So what they're saying is they're
21 afraid, at least in the writing of this memo,
22 that they may not be able to sell these
23 products with asbestos and silica in them;
24 isn't that true, sir?

25 MR. KADISH: Objection; form.

1 THE WITNESS: It's one
2 interpretation, yes.

3 BY MR. PANATIER:

4 Q. And you agree with that
5 interpretation?

6 MR. KADISH: Objection.

7 THE WITNESS: It, it could be, yes.

8 BY MR. PANATIER:

9 Q. Okay. And they're concerned that if
10 they can't sell them, they're going to lose out
11 of -- they're going to lose out on \$12 million
12 of sales based on those products, correct?

13 MR. KADISH: Objection to form.

14 THE WITNESS: That's a possibility,
15 yeah.

16 BY MR. PANATIER:

17 Q. Right. And that's, that's actually
18 a very fair reading of this; isn't it, sir?

19 A. I think it is.

20 Q. Okay. And that's 12 million per
21 year; true?

22 A. Yes. Yes.

23 Q. Okay. It says because of that
24 potential loss of income or revenue, it is
25 imperative to get action on alternative

1 materials immediately. Again, they're bringing
2 up the loss of sales. They are not saying we
3 need action or alternatives because of health
4 concerns, correct?

5 MR. KADISH: Objection to form.

6 THE WITNESS: They do not say that
7 in this memo, correct.

8 BY MR. PANATIER:

9 Q. All right. "Actions:
10 Unfortunately, the staff available in the
11 U.S.A. has been almost entirely engaged in
12 putting out fires in the manufacture of
13 satisfactory Proflex for many months and no
14 major effort has been devoted to the toxicity
15 program."

16 Did I read that right?

17 A. Yes.

18 Q. Now, sir, we've, we've already
19 talked about Foseco's awareness of the risks of
20 the asbestos it was putting in these products.
21 It certainly was aware of the asbestosis risk
22 and it was aware that there was a risk of
23 cancer as well, correct?

24 A. Correct.

25 Q. All right. And, sir, would you

Page 194 1 agree that a major effort to find a substitute 2 was justified based on what Foseco knew in 1965 3 to substitute asbestos? 4 MR. KADISH: Objection; form. 5 THE WITNESS: They, they were 6 considering and, and investigating possible 7 alternatives to asbestos in '65. It was a 8 continuing effort through this time period. 9 BY MR. PANATIER: 10 Q. My, my question is a little bit 11 different. Okay? 12 My question is based on the risks 13 known to Foseco in 1965, do you agree that in 14 fact a major effort to find a substitute was 15 justified in 1965? 16 A. Yes, it was. 17 Q. Okay. But it had not happened to 18 this date of April 4th, 1972, correct? 19 A. No, no, it had. 20 MR. KADISH: Objection; form. 21 THE WITNESS: It had. It's just 22 they're, they're still pursuing various 23 options. And they're putting as diligent 24 effort in as they can. 25	Page 196 1 THE WITNESS: That's what he's 2 saying. 3 BY MR. PANATIER: 4 Q. So all they needed, according to 5 Mr. Jago, who you've talked to, was to devote 6 one man for six months for 100 percent of his 7 time to this problem and he believed they could 8 solve it? 9 A. No, he's -- I interpret that that 10 they need someone full-time on trying to work 11 these formulation that's they're working on, 12 some of them with low asbestos, some with, with 13 asbestos free, to try to get them to work, try 14 to get them to work to forming the plants. 15 Q. What we know as of April of 1972, 16 seven years into selling the product, is prior 17 to this time there wasn't somebody dedicated 18 100 percent of the time for, for a period of 19 six months to try to do what you just said, 20 correct? 21 MR. KADISH: Objection; form. 22 THE WITNESS: I think there were 23 several people working on it, maybe not one 24 dedicated. What he's asking for is an 25 additional person to help, not to start
Page 195 1 BY MR. PANATIER: 2 Q. You're saying a major effort had 3 occurred, correct? 4 A. Yes. 5 Q. And what he's saying here in his own 6 words is no major effort has been devoted to 7 the toxicity problem; is that correct? 8 A. Correct. 9 Q. All right. The next section I want 10 to look at is starting with "However" on that 11 front page at the bottom. 12 A. Yeah. 13 Q. "However, satisfactory conclusion of 14 such a project cannot be hoped for unless one 15 man can devote 100 percent of his time to the 16 project for at least six months." 17 Did I read that right? 18 A. Yes, you did. 19 Q. So he's saying, basically, finding a 20 substitute for asbestos cannot satisfactorily 21 occur unless we can have one person devote 100 22 percent of their time to it for six months, 23 right? 24 MR. KADISH: Objection; asked and 25 answered.	Page 197 1 working. He's asking for an additional 2 purpose -- an additional person to help on 3 this project. 4 BY MR. PANATIER: 5 Q. Mr. Jago believed that if he had one 6 more guy who could work full-time for six 7 months they could have the problem solved, 8 correct? 9 A. That's what he's hoping for. 10 Q. Right. Prior to this time, that 11 resource had not been delegated within the 12 company to do that, correct? 13 MR. KADISH: Objection. 14 THE WITNESS: Not to one individual, 15 person, right. 16 BY MR. PANATIER: 17 Q. Okay. Okay. Foseco certainly had 18 the resources and wherewithal, had they wanted 19 prior to this time, to dedicate one individual 20 full-time for six months on the issue of the 21 substitutes for asbestos, correct? 22 MR. KADISH: Objection; form. 23 THE WITNESS: They, they had people 24 working on it. 25

Page 198 1 BY MR. PANATIER: 2 Q. My question was different. My 3 question is, Foseco had the resources, had they 4 wanted to, had they cared to, to set one person 5 up 100 percent of their time for six months to 6 handle the asbestos substitute issue, correct? 7 A. Yes, they could have. 8 MR. KADISH: Objection; form. 9 BY MR. PANATIER: 10 Q. Okay. Because Mr. Jago is 11 suggesting it now, we know they had not at that 12 time, correct? 13 A. As I, I said, they, they, they had 14 people working on it. Whether there was one 15 person that said you are working on this 16 full-time, I'm not sure. 17 Q. The point -- as we saw in the 18 earlier memos from '65 and '67, the point of 19 the substitute was to eliminate the recognized 20 risk from both the folks in the manufacture and 21 the end users, correct? 22 A. Correct. 23 Q. Foseco recognized a risk for that 24 entire period of time from '65 to '72, correct? 25 A. Correct.	Page 200 1 MR. PANATIER: It's the last 2 sentence of the -- 3 MR. INABINET: I'm going to star it. 4 MR. PANATIER: That's fine. 5 THE WITNESS: Okay. 6 BY MR. PANATIER: 7 Q. Okay. "As the magnitude of the 8 project is enormous, it really requires 9 one-and-a-half or two men devoting to it if the 10 deadline of December 1972 for an asbestos and 11 silica-free product is to be reached." 12 Did I read that right? 13 A. Yes. 14 Q. And so Mr. Jago is saying, you know, 15 to, to really come up with a substitute by that 16 deadline, you need one-and-a-half to two men, 17 which basically means one man full-time plus 18 another man half time to, two full-time, right? 19 A. Correct. 20 Q. Okay. And then "Proposed," number 21 one, do you see that below? 22 A. Yes. 23 Q. "To increase laboratory effort 24 immediately by one laboratory technician 25 already being processed and one chemist, this
Page 199 1 MR. KADISH: Objection; form. 2 BY MR. PANATIER: 3 Q. They did not pass along their 4 knowledge of the risk to the end users, 5 correct? 6 A. Not that I'm aware of, no. 7 Q. Now, if you continue on the -- 8 you're on the right page -- in that second 9 paragraph, the last sentence, it says, "As the 10 magnitude of the project is enormous, it really 11 requires one to one-and-a-half or two men 12 devoting to it if the deadline of December" -- 13 A. I'm sorry. I'm lost again. 14 Q. The last paragraph of the, of the 15 big paragraph there. I mean -- I'm sorry. The 16 last sentence of the big paragraph. 17 A. Can you start again and I'll try to 18 find it? 19 Q. Yes, sir. It starts with, "As the 20 magnitude...." Do you see that? 21 A. My eyes are -- 22 Q. That's fine. That's fine. We've 23 looked at a lot of stuff. 24 MR. INABINET: It's not highlighted, 25 Chris. That's why he's having a hard time.	Page 201 1 man would be chosen so that in a year or so he 2 could be removed -- he could be moved 3 elsewhere." 4 He's basically proposing the types 5 of people he would want for this project, 6 right? 7 A. Correct. 8 Q. All right. So you can set that 9 aside. 10 This will be Exhibit 22. 11 (Money Deposition Exhibit No. 22 12 was marked for identification.) 13 BY MR. PANATIER: 14 Q. Sir, this is a May 22nd, 1972, memo. 15 Do you see that? 16 A. Yes. 17 Q. It's from K.M. Swingle, assistant to 18 E.J. Jago, right? 19 A. Yes. 20 Q. So that's the Foseco, Inc., right? 21 A. Correct. 22 Q. And he's writing to Kaiser Steel. I 23 take it they were a customer, true? 24 A. Yes. 25 Q. He says, "Dear Sir, Enclosed are the

Page 202 1 typical chemical analysis and OSHA material 2 safety and health data sheets for Profax 31, 3 Profax 10, and Proflex G3. I am glad to 4 provide the enclosed chemical analysis to you 5 on the understanding that it is used only to 6 establish health hazard potential or quality 7 control procedures." 8 When he says "I'm glad to provide 9 the enclosed chemical analysis to you on the 10 understanding that it is used only to establish 11 health hazard potential or quality control 12 procedures," what does he mean? 13 A. He means that we expect you to keep 14 confidential the ingredients we're telling you 15 that's in the recipe. 16 Q. Now, the material safety data sheet 17 is something that was required under the Hazard 18 Communications Act, right? 19 A. It was required. I'm not sure what 20 act it was to do with. 21 Q. Okay. And any customer that 22 requested one was entitled to get one, right? 23 A. Yes. 24 Q. Now, you didn't send them out 25 automatically with the product, did you?	Page 204 1 Q. Does he convey -- 2 THE VIDEOGRAPHER: Going off the 3 video record at 2:00 p.m. 4 (Whereupon, a recess was taken.) 5 THE VIDEOGRAPHER: We're back on the 6 video record at 2:03 p.m. 7 BY MR. PANATIER: 8 Q. All right, sir. So here the 9 assistant to Mr. Jago -- by the way, K.M. 10 Swingle, he's Mr. Jago's assistant, do you know 11 what his training or education was? 12 A. It was his secretary. 13 Q. His secretary. Okay. 14 A. So it was a girl. 15 Q. Okay. I'm sorry. I'm sorry. Okay. 16 So K.M. -- do you know the person's 17 name? 18 A. Karen. 19 Q. Okay. Karen Swingle, who is the 20 assistant to Mr. Jago, is writing a customer of 21 Foseco, right? 22 A. Yes. 23 Q. And his secretary says, "You will 24 note that the material as delivered does 25 contain asbestos and therefore should be
Page 203 1 A. Yes, I believe we did, yes. 2 Q. Okay. Are you saying that a 3 material safety data sheet went along with, 4 what, every box of hot tops? 5 A. Every shipment that -- of hot tops, 6 yes. 7 Q. Who did the MSD sheet go to? Did it 8 go to the receiving agent, I guess? 9 A. My understanding is that the MSDS 10 sheets went to the steel mill direct, but there 11 was also one enclosed with every shipment. 12 Q. Right. 13 A. So it's whoever opened the shipment. 14 Q. Okay. So whoever opened the 15 shipment got the MSD sheet? 16 A. Correct. 17 Q. Okay. It says, "Profax 31. You 18 will note that the material as delivered does 19 contain asbestos and therefore should be 20 handled with some care. However, in the board 21 form, the fibers are closely bonded and 22 unlikely to cause any major health problem." 23 Does he there mention what happens 24 after you use the boards? 25 A. No, he does not.	Page 205 1 handled with some care. However, in the board 2 form, the fibers are closely bonded and 3 unlikely to cause any major health hazard 4 problems." 5 This is a secretary at Foseco 6 telling one of the customers that the board is 7 unlikely to cause any major health hazard 8 problems, right? 9 A. No. His secretary sent it out, but 10 it was, it was -- it was a Ted Jago memo. 11 It's -- probably he was, he was out of the 12 office or visiting, and so he, he said this 13 letter's got to go out. And because he wasn't 14 in the office that day, he got his, his 15 assistant to, to send it out. 16 Q. Okay. Well, I mean, usually it's -- 17 usually it's signed with permission Mr. Jago or 18 something like that. This one is from her. 19 A. Sometimes but not, not all the time, 20 no. 21 Q. Okay. Well, either way, what's 22 being told to Kaiser Steel Corporation is that 23 the board form -- the board form -- what is 24 being told to this customer of Foseco is that 25 in the board form the fibers are closely bonded

Page 206 1 and unlikely to cause any major health hazard, 2 right? 3 A. Correct. 4 Q. The fibers are not closely bonded 5 after the product is used, correct? 6 MR. KADISH: Objection; form. 7 THE WITNESS: We've had that 8 discussion. It's -- Jago's comments were 9 that it's no longer asbestos after use. 10 BY MR. PANATIER: 11 Q. My question is it's no longer 12 bonded; is it? 13 A. I'm not technically qualified to 14 answer that, but I would suspect it's burnt 15 away. 16 Q. And, sir, you know that in the steel 17 industry they have to knock off the old hot top 18 material. It usually comes off pretty easily, 19 and then they use compressed air to clean the 20 area, correct? 21 A. Correct. 22 Q. So they're -- they are -- the board 23 is in a form that is very easily knocked off of 24 the steel, correct? 25 A. Correct.	Page 208 1 It doesn't say there's none left; 2 does it? 3 A. It does not specifically say that, 4 but his interpretation was that it was 0. 5 Q. Well, then shouldn't he have told 6 Karen to put 0 there instead of below 7 5 percent? 8 A. He was just being cautious. 9 Q. But he didn't say 4 percent or 3 or 10 2 or 1; did he? 11 A. No, but that's because it's back to 12 the initial OSHA -- I don't know whether you 13 call it rules. It was saying -- the first 14 report we got was that -- I think it was the 15 OSHA Reporter that says the proposed and 16 expected warning is, is going to be on unbonded 17 or asbestos unbonded fibers below 5 percent. 18 And that's where the 5 percent is 19 coming. And then there was always 20 conversation, well, that's might change and 21 that's where they were saying it could be as 22 low as 2 percent. 23 And what Jago was doing here, he was 24 saying that the board asbestos was 4 percent. 25 And he's saying it was below, below the 2
Page 207 1 Q. And it is very easily disposed off, 2 at least away from the steel, via compressed 3 air, right? 4 A. Yes. 5 Q. Okay. By the way, did Foseco ever 6 conduct any studies of that activity, knocking 7 off the old material from an ingot and then 8 compressed air, spraying it away? 9 A. No. 10 Q. Okay. But it knew that's what 11 happened? 12 A. Yes. 13 Q. Okay. The other side of the use, 14 the knocking off of the old material, is not 15 mentioned here at all, correct? 16 A. Correct. 17 Q. Then under Proflex G3, it says, "The 18 composition provided represents a typical 19 analysis of the residue formed by the board 20 after use. The original bonded board may vary 21 from this composition by some minor amount. 22 Before use the board contains 15 percent 23 asbestos fiber. After heating to 2,000 24 degrees, the residual content will be below 25 5 percent."	Page 209 1 percent. And just to play cautious, he said 2 that it would be below 5 percent, which was the 3 interpretation of the requirements at that time 4 in May. 5 Q. What Mr. Jago's communicating to his 6 customer here is that after use, for both 7 Profax and for Proflex, the two hot top 8 materials we've been talking about primarily, 9 there's asbestos left after use, correct? 10 MR. KADISH: Objection; form. 11 THE WITNESS: No, he's saying, he's 12 saying it will be below that amount. 13 BY MR. PANATIER: 14 Q. He says after heating to 2,000 15 degrees, Profax will be below 2 percent 16 asbestos in the residual material, right? 17 A. Correct. 18 Q. And for Proflex, he says it will be 19 below 5? 20 A. Correct. 21 Q. You're saying he had a test that 22 showed 0, right? 23 A. Correct. 24 Q. He doesn't say I have a test that 25 shows 0; does he?

Page 210 1 A. No, he didn't. 2 Q. And then he also doesn't cite to the 3 other memo we saw which cited to 700 million 4 fibers per one pound of ash, correct? 5 A. No, did he not. 6 Q. He did not include that information 7 here, right? 8 A. No. 9 Q. Now, you said that there was a 10 proposed rule making that talked about 11 5 percent and 2 percent for warning? 12 A. What I, I said or should have said 13 is that we got a report from the -- I think it 14 was called the Reporter for OSHA. And it said 15 the proposed and expected requirements for 16 warning labels would be that if there was more 17 than 5 percent of unbonded fibers, asbestos 18 fibers, there would be a warning label 19 required. 20 The 2 percent came in if -- there 21 was also discussion out there that that could 22 be changed and it could go as low as 2 percent. 23 That was the current feeling in that time 24 period. 25 Q. Is it Foseco's position that OSHA	Page 212 1 percentage of asbestos, it's based on how much 2 asbestos is release into the air? 3 A. No, I don't believe we did. They 4 were trying to understand OSHA. 5 Q. My question was, do you know whether 6 or not they followed up and said, hey, by the 7 way, what we told you before, not accurate, the 8 warning requirements and label requirements are 9 based on how much asbestos goes in the air, not 10 the percentage in the product? 11 MR. KADISH: Objection to form. 12 THE WITNESS: I see no documents 13 saying that, no. 14 MR. PANATIER: Okay. This next 15 document will be Exhibit 23. 16 THE WITNESS: Finished with this 17 one? 18 MR. PANATIER: Yes, sir. 19 (Money Deposition Exhibit No. 23 20 was marked for identification.) 21 BY MR. PANATIER: 22 Q. All right. Sir, that's a material 23 safety data sheet from Foseco. Do you see 24 that? 25 A. Yes.
Page 211 1 had a warning requirement for asbestos- 2 containing products that was based on the 3 percent of asbestos? 4 A. It, it wasn't afterwards. When we 5 went through the final regulations when they 6 came out, it did not mention percentages of 7 asbestos. But in the, in the OSHA Reporter 8 that we received, that's what these discussions 9 were based on. It was -- that it was saying 10 5 percent by weight. 11 Q. And to be clear, the final 12 regulations, which were published one month 13 after this or went into effect one month after 14 this, had to do with warning requirements and 15 whether or not in the foreseeable use of the 16 product they would release fibers in excess of 17 the PEL, correct? 18 A. It was in excess of whatever PEL is. 19 Q. Right. Whatever the limit was? 20 A. Correct. 21 Q. You had to put a label on it, right? 22 A. Correct. 23 Q. Okay. After that came out, do you 24 know whether or not Foseco followed up with its 25 customers and said, okay, it's not based on	Page 213 1 Q. You have seen a number of these in 2 the past, correct? 3 A. Correct. 4 Q. And if you'll turn to the second 5 page, could you tell us the date of that? 6 A. It's August 21st, 1972. 7 Q. All right. These came out 8 throughout the year, and I think we'll look at 9 some others that were a couple months earlier. 10 But who is that signed by? 11 A. Ted Jago. 12 Q. So this is kind of the main 13 technical guy we've been talking about and that 14 we've seen on some of this correspondence? 15 A. That's correct. 16 Q. If you go back to the front, it is 17 for what product? 18 A. Profax. 19 Q. So it's a Foseco hot top, right? 20 A. Correct. 21 Q. And under Section 2, "Hazardous 22 Ingredients," it lists asbestos, right? 23 A. Correct. 24 Q. What does it say, the highlighted 25 section?

Page 214 1 A. "This product was supplied as a 2 bonded bore and does not create asbestos dust 3 during normal handling. No significant hazards 4 should therefore arise from the use of this 5 product." 6 Q. He does not address the other part 7 of the use of the product, which is the removal 8 of the used product from the ingots, correct? 9 A. Correct. 10 Q. He does not talk about the use of 11 pneumatic nailing; does he? 12 A. No, he does not. 13 Q. He does state, "However" -- next he 14 says, "However, as of July 7th, 1972, the 15 8-hour time-weighted average airborne 16 concentration of asbestos fiber to which any 17 employee may be exposed shall not exceed 5, 18 longer than 5 micrometers," and I think he's 19 talking about 5 fibers, "per cubic centimeter 20 of air. Regular air monitoring is suggested." 21 Right? 22 A. Correct. 23 Q. There does it list -- actually, 24 we'll go to the next page. Go to the next 25 page. On the top, Section v, health hazard	Page 216 1 Q. So where did that dizziness thing 2 come from? 3 A. I don't know. 4 Q. So he's talking about this product 5 that contains asbestos, and what he says as the 6 health hazard data is, it might make you dizzy, 7 it might irritate your mucous membranes, right? 8 A. Correct. 9 Q. He does not say what we know Foseco 10 knew, which is asbestos can cause asbestosis, 11 right? 12 A. He does not say that. 13 Q. And, in fact, Foseco knew that 14 asbestos could cause asbestosis in even small 15 amounts. We saw that from the earlier memo, 16 correct? 17 A. We did, but also the steel mill knew 18 that our products contained asbestos. 19 Q. So -- well, then you shouldn't have 20 supplied this at all, then; right? 21 A. No, we were required to supply this. 22 Q. Okay. Okay. So here's my question. 23 Did they say -- did Mr. Jago say that small 24 amounts of asbestos exposure can cause 25 asbestosis?
Page 215 1 data, do you see that? 2 A. What does it start with? I can't 3 see a 5. 4 Q. It's on the very top. It's a (v). 5 A. Okay. 6 Q. Section v. 7 A. Section v, yes, I do. 8 Q. Right. Health hazard data, and it 9 says -- it's tough to see there, but it says, 10 "Effects of Over-Exposure," and I've 11 highlighted that. What does that say? 12 A. It says, "During strip" -- in 13 brackets -- "(without adequate ventilation)" -- 14 end of brackets -- "dust may cause dizziness 15 and irritation of the mucous membrane." 16 Q. All right. So he actually mentions 17 during stripping, which is the, the second part 18 of the use of the product, right? 19 A. Correct. 20 Q. Okay. And he says may cause what -- 21 did he say dizziness? 22 A. Yes. 23 Q. And irritation of the mucous 24 membranes? 25 A. Correct.	Page 217 1 A. No, he does not. 2 Q. Does he say that we know that 3 asbestos as used in our products has been 4 implicated in cancer? 5 MR. KADISH: Objection; form. 6 THE WITNESS: He does not. 7 BY MR. PANATIER: 8 Q. Okay. Does he mention mesothelioma? 9 A. No. 10 Q. Okay. And then if you go down to 11 special precautions at the very bottom. It's 12 Section ix or i-x. 13 A. Yes. 14 Q. What does it say? 15 A. Store at room temperatures. 16 Q. Okay. Sir, it is true that this 17 material data sheet that you're looking for for 18 Foseco hot tops did not convey to the customer 19 everything Foseco knew about the hazards of 20 asbestos, right? 21 A. It did not. 22 Q. Okay. You can set that aside, sir. 23 We were just looking at Profax, 24 correct? 25 A. That was Profax, correct.

Page 218 1 Q. Okay. So just to round it out, I 2 will mark the MSD sheet for Proflex. That will 3 be Number 24. 4 (Money Deposition Exhibit No. 24 5 was marked for identification.) 6 BY MR. PANATIER: 7 Q. Sir, is that a material data sheet? 8 A. Yes. 9 Q. Put together by Foseco? 10 A. Yes. 11 Q. Who signed that one? 12 A. That's what I was looking. Ted 13 Jago. 14 Q. All right. What's, what's the date 15 he put on there? 16 A. March 24th, 1972. 17 Q. This is for Proflex, which is a 18 slightly different product than Profax, but 19 still asbestos-containing, correct? 20 A. Correct. 21 Q. All right. Again, under "Hazardous 22 Mixtures of Other Liquids, Solids or Gases" 23 under Section 2, what does it say about 24 asbestos? 25 A. "(Asbestos) -- in brackets -- "as an	Page 220 1 Q. But that one doesn't say dizziness, 2 does it? 3 A. No, it does not. 4 Q. So Profax may make you dizzy; 5 Proflex may not? 6 A. That's the wording it shows, but... 7 Q. Okay. This MSD sheet, sir, just 8 like the Profax sheet that we just looked at 9 it, it did not convey everything that Foseco 10 already knew about the dangers of asbestos, 11 correct? 12 A. It did not. 13 Q. It does not talk about asbestosis, 14 lung cancer, or mesothelioma, correct? 15 A. It does not. 16 Q. And, sir, under "Special 17 Precautions" down at the bottom, what are the 18 special precautions it lists? 19 A. "Store at room temperature." 20 Q. All right. Thank you, sir. You can 21 set that aside. 22 This will be 25. 23 (Money Deposition Exhibit No. 25 24 was marked for identification.) 25
Page 219 1 emergency standard for asbestos dust is now in 2 force)" -- end of brackets -- "there is a no 3 established TLV. However, the 8-hour time- 4 weighted average airborne concentrate of 5 asbestos dust to which employees are exposed 6 shall not exceed 5 fibers per" -- whatever it 7 is -- "greater than 5 microns in length. As 8 Proflex (G-3) is supplied in board form and 9 does not create an asbestos dust, Proflex (G-3) 10 should not pose any significant hazard." 11 Q. All right. Again, that one for that 12 product, it doesn't mention the second part of 13 the use of the product, which is the stripping 14 there, correct? 15 A. It does not. 16 Q. Okay. Now, if you turn the page, I 17 believe at the top of the page, sir, under 18 Section 5, "Health Hazard Data," it does 19 address stripping, correct? 20 A. It does. 21 Q. And what are the health effects of 22 stripping that it says? 23 A. It's the same wording as the Profax, 24 dust may cause irritation of the mucous 25 membranes.	Page 221 1 BY MR. PANATIER: 2 Q. Just looking at the front there, 3 sir. 4 A. Yes. 5 Q. This Exhibit 25 is just the results 6 of an air sampling survey and noise survey that 7 was done June 13th, 1972, for Foseco, correct? 8 A. Yes. 9 Q. Okay. Now, here's a question I 10 have. Did Foseco devote the same level of 11 attention to protecting the ultimate users of 12 its asbestos products as it did protecting its 13 own employees from asbestos hazards? 14 MR. KADISH: Objection; form. 15 THE WITNESS: It, it, it tried to 16 protect both. 17 BY MR. PANATIER: 18 Q. It tried -- okay. Are you saying 19 that Foseco tried to use the same level of 20 diligence in protecting its own employees that 21 it did protecting the actual end users of its 22 own products? 23 MR. KADISH: Objection; form. 24 THE WITNESS: There was checks in 25 place within the plant, and, and -- because

Page 222 1 they had direct access to those controls or 2 procedures necessary. They did not have 3 direct access to controls and procedures 4 within the steel mills. 5 BY MR. PANATIER: 6 Q. Sure. What I'm saying is did Foseco 7 put forth the same efforts to provide a safe 8 working place for its own employees as it did 9 to provide a safe product to the folks working 10 in the steel mill? 11 MR. KADISH: Objection; form. 12 THE WITNESS: It, it, it tried to 13 provide a safe place for both. 14 BY MR. PANATIER: 15 Q. Do you believe that Foseco gave the 16 same attention to trying to provide a safe 17 workplace, the same level of attention as the 18 level of attention it had towards providing a 19 safe product when it sold it? 20 A. It, it -- 21 MR. KADISH: Objection; form. 22 THE WITNESS: It obviously spent 23 most -- a lot of its time on the plant, 24 production plant, if that's -- that answers 25 your question.	Page 224 1 products in steel mill. 2 BY MR. PANATIER: 3 Q. Ultimately, did Foseco put forth -- 4 have to put forth more effort to create a safe 5 working environment for its own employees than 6 it did to sell a safe product to the steel 7 mills? 8 MR. KADISH: Objection; form. 9 THE WITNESS: Yeah, I would believe 10 so, yes. 11 BY MR. PANATIER: 12 Q. Okay. So there was more effort -- 13 A. Yes. 14 Q. -- put into, okay, the, the employee 15 effort -- 16 A. Yes. 17 Q. -- than the product effort? 18 A. Yes. 19 Q. Okay. So let's look at this. This 20 is, of course, an air sampling and noise survey 21 done for Foseco. This was for the Cleveland 22 facility, correct? 23 A. Let me look. Yes. 24 Q. All right. And so there's a lot to 25 talk about noise levels. We'll turn to page 4.
Page 223 1 BY MR. PANATIER: 2 Q. Well -- and this may help. You're 3 obviously going to have a different set of 4 things you have to do for people in your own 5 plant than for, for a product you're selling, 6 right? 7 A. Correct. 8 Q. You have different responsibilities 9 and there's a different way you handle safety 10 from, from each one, right? 11 A. Correct. 12 Q. My question is, is from -- in a 13 general sense, was the amount of diligence in 14 providing a safe workplace for Foseco's actual 15 workers, was that the same level of diligence 16 that Foseco put into creating a safe product? 17 MR. KADISH: Objection; form; asked 18 and answered. 19 THE WITNESS: I, I can't make any 20 more comments than I've said. They, they 21 looked at the method of manufacture and put 22 whatever reasonable effort they could, 23 understanding what the requirements were, 24 the problems were, and they addressed them. 25 And they did the same with the finished	Page 225 1 Can you see there's a highlighted section 2 called "Conclusion"? 3 A. Yes. 4 Q. It says, "Conclusion: Dust Survey. 5 Based on the results of our air samples, it 6 would indicate that properly designed local 7 exhaust ventilation is needed in the following 8 areas. Area 0-8, 0-2 and 0-7," that's pulper, 9 oven unloading, and pulper, and those are folks 10 working with asbestos making hot tops, right? 11 A. That's correct. 12 Q. That means that Foseco was not 13 maintaining asbestos dust below required levels 14 for those people, right? 15 A. On this study that's what he says, 16 correct. 17 Q. Okay. All right. 18 And then if you turn the page, 19 there's a, a highlight there. You're already 20 there. It's got a series of recommendations, 21 but Number 2 is "A less hazardous material may 22 be substituted instead of asbestos, perhaps 23 some other mineral fiber, right? 24 A. Correct. 25 Q. So this is -- the folks who did the

Page 226 1 survey are saying, hey, you guys should find a 2 substitute for asbestos, right? 3 A. Yes. He says it, it may be 4 substituted. 5 Q. Right. 6 A. Yes. 7 Q. Because if you substitute something 8 that's less hazardous, you decrease the hazard, 9 right? 10 A. Correct. 11 Q. This was something Foseco already 12 knew. They already knew they needed to find a 13 substitute for asbestos, right? 14 A. And we're working on it. 15 Q. Right. Do you know whether or not 16 at this time Foseco had devoted resources to 17 put one man on it for 100 percent of its time? 18 A. I don't. 19 Q. For six months? You don't know 20 that? 21 A. I don't. 22 Q. All right. You can set that aside, 23 sir. 24 This next one is Exhibit 26. 25	Page 228 1 sentence, sir, that every single place they 2 sampled for airborne contaminants was in excess 3 of OSHA standards. 4 A. That's what it says, correct. 5 Q. Does that suggest to you that Foseco 6 was using a reasonable level of diligence in 7 protecting its workers? 8 A. Yes, they were. It's just that 9 sometimes products -- I mean, processes and 10 equipment malfunction, break down. 11 Q. So it just so happens that for two 12 surveys we've looked at, all of the samples 13 were in excess of the, the levels that were in 14 effect that we've looked at, right? 15 A. That's correct. 16 MR. KADISH: Objection; form. 17 BY MR. PANATIER: 18 Q. And that's a coincidence? 19 A. No, I don't know. We -- we, we did 20 a, a reasonable effort on making sure that we 21 had the adequate controls in place. But, I 22 mean, it was part of this making sure that if 23 there was any problems that arose we took 24 action on. 25 Q. Sir, there was a problem that arose
Page 227 1 (Money Deposition Exhibit No. 26 2 was marked for identification.) 3 BY MR. PANATIER: 4 Q. Sir, you know that this is the 5 results of a survey at Foseco's Chicago 6 facility, correct? 7 A. Correct. 8 Q. And they're looking for asbestos 9 fiber concentrations, right? 10 A. And mineral dust, yes. 11 Q. Right. If you will turn to the page 12 marked 2 but it's Bates-stamped 1132. 13 A. Okay. 14 Q. All right. 15 A. Yes. 16 Q. "Conclusions: Because employee 17 exposure to airborne contaminants at all 18 locations tested was in excess of the standards 19 presented in the Occupational Safety & Health 20 Act of 1970, the following proposals are 21 presented." 22 And there's a number of different 23 proposals, correct? 24 A. Correct. 25 Q. But we can take from just that one	Page 229 1 for every sample that was done, right? 2 A. Okay. Yes, that's what it says. 3 Q. Every single one was above OSHA 4 limits. 5 A. Correct. 6 Q. And you told the jury that Foseco 7 put more effort into employee safety than they 8 did into product safety, right? 9 A. Correct. 10 Q. All right, sir. So the next section 11 is the page marked 1135. It says, "Findings: 12 The upstairs mixing operation worker was 13 exposed to asbestos fiber concentrations of 14 107, 133, and 186 fibers per milliliter greater 15 than 5 microns in length as determined from the 16 three samples collected." 17 Now, sir, you know at this time and, 18 in fact, they say it, the standard says you 19 can't go above 5, right? 20 A. Correct. 21 Q. And these results are 107, 133, and 22 186, right? 23 A. That's what it says, yes. 24 Q. It says, "These, these are 25 concentrations of 21, 27, and 37 times the

Page 230 1 present acceptable level of 5 fibers per 2 milliliter greater than 5 microns in length." 3 Sir, would you agree that those 4 workers should absolutely have not have been 5 exposed to those levels of asbestos if the 6 company was exercising even remote care? 7 MR. INABINET: Objection; form. 8 THE WITNESS: There was controls in 9 place. And if there's -- they were the 10 measurements shown, then, yeah, it would, 11 it would be a problem which we would 12 address. 13 BY MR. PANATIER: 14 Q. I mean, you say there's controls in 15 place. What were they? 16 A. There was respirators and dust 17 extractors, dust collection. 18 Q. I mean, what were the dust 19 extractors? And, and pardon me, but were they 20 -- I mean, were vacuum cleaners suspended from 21 the ceiling? What was it? 22 MR. KADISH: Objection; form. 23 THE WITNESS: They were exhaust 24 fans. They were dust collectors and 25 respirators, as I've said.	Page 232 1 and palletizing hot tops was exposed to a 2 mineral dust concentration of 14.3 milligrams 3 of dust per cubic meter of air," and that's 4 just a general mineral dust sample, correct? 5 A. Correct. 6 Q. All right. You can turn the page. 7 And I may be finished with this document. Let 8 me just make sure. 9 If you'll turn to the page marked 10 1140, sir, you can see that they actually 11 provided for Foseco a copy of the proposed 12 rules. 13 A. Correct. 14 Q. Is this what you were referring to 15 as the -- where you thought it discussed a 16 percentage? 17 A. No. 18 Q. Okay. Is it in this document? 19 A. No. 20 Q. All right. You can set that aside. 21 MR. INABINET: Let's take a quick 22 break. 23 MR. PANATIER: Yeah, let's do it. 24 THE VIDEOGRAPHER: Going off the 25 record at 2:32 p.m. with the end of Tape 4.
Page 231 1 BY MR. PANATIER: 2 Q. The dust collection system, whatever 3 it was, it clearly was not working, right? 4 MR. KADISH: Objection; form. 5 THE WITNESS: It wasn't working as 6 it should be if these, if these samples 7 were -- when these samples were taken, 8 that's correct. 9 BY MR. PANATIER: 10 Q. It wasn't working as it should be by 11 a factor of over 20 times, right? 12 A. That's what it says, yes. 13 Q. And over 37 times in one instance, 14 true? 15 A. Correct. 16 Q. And, again, it's still your 17 testimony that Foseco put more effort into the 18 safety of its employees than it did its 19 products. 20 MR. KADISH: Objection; form; asked 21 and answered; argumentative. 22 THE WITNESS: Correct. 23 BY MR. PANATIER: 24 Q. If you go down to the next 25 highlight, sir, it says, "The worker unloading	Page 233 1 (Whereupon, a recess was taken.) 2 THE VIDEOGRAPHER: We're back on the 3 video record at 2:39 p.m. with Videotape 5. 4 BY MR. PANATIER: 5 Q. One moment. 6 This will be Exhibit 27. 7 (Money Deposition Exhibit No. 27 8 was marked for identification.) 9 BY MR. PANATIER: 10 Q. Sir, can you see that this is an 11 excerpt from the Federal Register? This is 12 from the Title 29, the Occupational Safety & 13 Health Administration, Department of Labor, 14 occupational safety and health standards for 15 asbestos. 16 A. Yes. 17 Q. Can you see that the date there is 18 June 7th, 1972? At the very bottom. 19 A. Yes. 20 Q. Okay. I want to ask you a few 21 things. First of all, there should be a 22 highlight there in the far right column. Do 23 you see that? 24 A. Yes, I do. 25 Q. And that statement says -- this is

Page 234 1 OSHA now -- "In view of the undisputed grave 2 consequences from exposure to asbestos fibers, 3 it is essential that the exposure be regulated 4 now on the basis of the best evidence available 5 now even though it may not be as good as 6 scientifically desirable. An asbestos standard 7 can be reevaluated in the light of the results 8 of ongoing studies and future studies but 9 cannot wait for them. Lives of employees are 10 at stake now." 11 I asked you earlier whether Foseco 12 would be familiar with different regulations 13 that applied to what it did. And certainly 14 they would have been aware of this, correct? 15 A. They would have, yes. 16 Q. All right. And Foseco would have 17 known that OSHA said lives of employees are at 18 stake with regard to asbestos, correct? 19 A. Correct. 20 Q. Sir, if you will turn two more 21 pages, it's the page that at the very top is 22 11320. 23 A. Yes. 24 Q. All right. There's a little 25 boxed-in highlight there.	Page 236 1 Q. Right. And then you can see in the 2 next paragraph -- we're not going to read it, 3 but you can see they actually say what it's 4 going to drop to in 1976. 5 A. Yeah. Do you want me to read it? 6 Q. No. You can see they actually tell 7 you what, what it's going to go to. 8 A. Yes. 9 Q. Okay. All right. If you'll turn to 10 the next page, sir, we have the caution label 11 section. Do you see that I've highlighted that 12 for you? 13 A. Yes. 14 Q. It says, "Caution labels: Labeling, 15 caution labels shall be affixed to all raw 16 materials, mixtures, scrap, waste, debris, and 17 other products containing asbestos fibers or to 18 their containers, except that no label is 19 required where asbestos fibers have been 20 modified by a bonding agent, coating, binder, 21 or other material so that during any reasonably 22 foreseeable use, handling, storage, disposal, 23 processing, or transportation no airborne 24 concentrations of asbestos fibers in excess of 25 the exposure limits prescribed in paragraph (b)
Page 235 1 A. Yes. 2 Q. Do you see that it says "permissible 3 exposure to airborne concentrations of 4 asbestos"? 5 A. Yes. 6 Q. And it says, "The standard effective 7 July 7th, 1972, the 8-hour time-weighted 8 average airborne concentrations of asbestos 9 fibers to which any employee may be exposed 10 shall not exceed 5 fibers, longer than 5 11 micrometers, per cubic centimeter of air as 12 determined by the method prescribed in 13 paragraph (e) of this section," right? 14 A. Correct. 15 Q. So they set a permissible exposure 16 limit of 5 fibers per cubic centimeter. That's 17 the same thing as a milliliter, right? 18 A. Yet. 19 Q. So long as those fibers were longer 20 than 5 microns, right? 21 A. Correct. 22 Q. Okay. So Foseco understood that 23 this PEL would go into effect on July 7th, 24 1972? 25 A. Yes, they did.	Page 237 1 of the section will be released." 2 And you and I have talked about this 3 a little bit. What that means is you need a 4 label if in the foreseeable use of the product 5 you can exceed the PEL. 6 A. That's correct. 7 Q. Right? 8 What tests did Foseco do to 9 determine whether or not they would exceed the 10 PEL in the foreseeable use of their hot tops? 11 A. At this time frame, I don't believe 12 that they did any more tests than the original 13 Jago one. 14 Q. Right. No fiber release tests? 15 A. No. 16 Q. In fact, Jago's test was not a 17 foreseeable use fiber release test, was it? 18 A. His test was looking at whether, 19 after subject to the steelmaking practice, 20 whether there was any asbestos present, and his 21 conclusion was no, there wasn't. 22 Q. Right. And we've talked about that. 23 A. Yes. 24 Q. But that was not a test for whether 25 or not there was asbestos in the air.

Page 238 1 A. He, he was saying there wasn't any 2 asbestos. 3 Q. He didn't test the air, though. He 4 just tested the dust, right? 5 A. He tested the remains of whatever 6 was left of the Profax board. 7 Q. The remains. 8 A. Correct. 9 Q. The, the dust, whatever you want to 10 call it, that's what he tested? 11 A. Yes. 12 Q. Okay. He did not test the air in 13 the area of installation of Foseco hot tops; 14 did he? 15 A. I've talked to Ted on, on this, and 16 that was not one area which I asked him about. 17 So I can't make a, a comment. 18 Q. Easier way to ask that question: 19 You're not aware of any evidence that Foseco 20 ever conducted any tests of the air in the area 21 of or on a person doing the installation of 22 Foseco hot tops. 23 A. That's correct. 24 Q. And similarly, you're not aware of 25 any evidence that Foseco ever conducted any	Page 240 1 A. -- that it refers to. Correct. 2 Q. Okay. If the conditions apply, you 3 have to put this label on with these words, 4 right? 5 A. Correct. 6 Q. Did OSHA ever say, hey, look, if you 7 want to be more detailed and say in addition we 8 know that some of the hazards are asbestosis, 9 lung cancer, mesothelioma, you can't do that? 10 Did they? 11 A. Not that I'm aware of. 12 Q. Did Foseco ever write to the 13 Department of Labor and say, hey, look, we 14 actually have pretty detailed knowledge about 15 asbestos hazards. We would like to put on a 16 more detailed caution label? 17 A. No. 18 Q. Okay. When was the first time -- 19 you can set that aside. 20 When was the first time that a 21 caution label pertaining to asbestos ever 22 appeared on a Foseco hot top? 23 A. It was -- as I said earlier, I 24 joined in October 1972. And there was a label 25 on then.
Page 239 1 analysis of the air around or of a person doing 2 the removal of the used hot top from an ingot, 3 correct? 4 A. That's correct. 5 Q. Same answer for the -- a blowout or 6 the compressed air blowout of that material, 7 right? 8 A. Correct. 9 Q. Then it says what the label 10 specifications are, and it says the label has 11 to say caution, contains asbestos fibers, avoid 12 creating dust, breathing asbestos dust may 13 cause serious bodily harm, right? 14 A. Correct. 15 Q. To your knowledge, does the OSHA 16 standard ever say you are not allowed to 17 include more information than is on this label? 18 A. I, I don't think the content was 19 discussed. I'm trying to understand your 20 question. 21 Q. Right. In other words, they say you 22 have to put this label on it. It has to say 23 these words, right? 24 A. If the, if the conditions apply -- 25 Q. Right.	Page 241 1 Q. Okay. Do you have a -- do you have 2 any pictures of that label? 3 A. Yes. 4 Q. Okay. Were those put on the CD? 5 A. Yes. 6 MR. INABINET: They should be on the 7 CD and it should be in whatever you have. 8 MR. PANATIER: Are they color? 9 THE WITNESS: Yes. 10 MR. INABINET: I don't know if there 11 is color on there. But I, I have a color 12 one somewhere. So -- 13 MR. PANATIER: All right. And maybe 14 we can e-mail afterwards. I'd just like a 15 copy if it's not on there. 16 MR. INABINET: Yeah, sure. 17 BY MR. PANATIER: 18 Q. All right. So the caution label 19 that ultimately went on, when was the first 20 time it, it went on? 21 A. I said it was on on October when I 22 joined in '72. And my, my understanding is 23 these had just been placed on, so it could have 24 been weeks rather than months before. 25 Q. I think I saw -- and we can verify

Page 242 1 this, but I think I saw in the interrogatory 2 responses that they went on in September of 3 '72. 4 A. And that makes sense, yes. 5 Q. All right. Now, obviously they were 6 required as of June of '72. You know that, 7 right? 8 A. If it met the conditions that they 9 applied to. 10 Q. And Foseco felt that the warning 11 needed to be placed on there. 12 A. No, what -- it was exactly opposite. 13 What Foseco said was those, those asbestos 14 fibers were bound and therefore there was no 15 requirement to put a label on. 16 In fact, there was -- apparently 17 there was a lot of discussion on whether we 18 should put a label on or not. Ted Jago said 19 that, you know, maybe we should, maybe we 20 shouldn't. But to err on caution, it was -- 21 the decision he made was, look, we, we should 22 put a label on every product containing 23 asbestos. And that's what was done. 24 Q. Okay. So Foseco decided to put a 25 label on. That was the OSHA-required label,	Page 244 1 BY MR. PANATIER: 2 Q. Let me rephrase it. Okay? 3 Sir, was there anything legal, 4 moral, financial, whatever, that was preventing 5 Foseco from placing an adequate and noticeable 6 warning on its packages of hot tops prior to 7 '72? 8 MR. KADISH: Objection to form. 9 THE WITNESS: Not that I'm aware of. 10 I know that the steel mills knew what was 11 in the product. We had the MSDS's which 12 were sent to the customers before that. 13 BY MR. PANATIER: 14 Q. Okay. I'm just going to object as 15 nonresponsive. 16 A. Okay. 17 Q. The question is, was there anything, 18 whether it be moral, legal, or financial, that 19 you're aware of, any factor, that would have 20 prevented Foseco from placing an adequate and 21 noticeable warning on its own asbestos products 22 prior to '72? 23 A. No. 24 MR. KADISH: Same objection. Asked 25 and answered.
Page 243 1 right? 2 A. It was an OSHA-required label, 3 correct. 4 Q. Okay. Even though they didn't feel 5 that OSHA required it for their product? 6 A. Correct. 7 Q. And, of course, the only way to know 8 whether or not OSHA required it is to know 9 whether or not in the foreseeable use of the 10 product asbestos fibers were released in excess 11 of the PEL, correct? 12 A. That's correct. 13 Q. And we've already established that 14 no testing was done to actually determine 15 whether or not that was the case? 16 A. That's, that's true. 17 Q. Okay. There was nothing preventing 18 Foseco from placing an adequate and noticeable 19 warning label on its hot top products prior to 20 1972; was there? 21 MR. KADISH: Objection; form. 22 THE WITNESS: Are you talking about 23 was there a legal requirement? Is that the 24 question? 25	Page 245 1 (Money Deposition Exhibit No. 28 2 was marked for identification.) 3 BY MR. PANATIER: 4 Q. All right. I'm handing you what has 5 been marked Exhibit 28. Have you seen that 6 before? 7 A. Yes. 8 Q. This is a memo from Mr. Jago to a 9 wide range of individuals, correct? 10 A. Yes. 11 Q. June 28th, 1972, so just a couple 12 weeks after the OSHA regulation that we looked 13 at dated June 7th, '72. He says, "Subject: 14 Low health hazard, hot tops." 15 Do you see that? 16 A. Yes. 17 Q. It says, "It is essential to our 18 economic survival that we be in a position to 19 offer an asbestos-free and low hazard 20 substitutes for Profax and Proflex as a 21 standard production item should the need 22 arise." 23 Sir, we can take from that that at 24 this time Foseco did not have an asbestos-free 25 or low hazard substitute for Profax or Proflex

1 as a standard production item at this time,
 2 correct?
 3 A. That's correct.
 4 Q. Okay. And he says it's key to --
 5 it's essential to our economic survival.
 6 Right?
 7 A. Yes.
 8 Q. And we've already talked about how
 9 individuals within Foseco have cited to the
 10 fact that they were selling approximately \$12
 11 million worth of this product each year, right?
 12 A. No, it said \$12 million of hot top
 13 products, which included the exothermic powder.
 14 Q. It included three products. It
 15 included Profax, Proflex, and the powder,
 16 right?
 17 A. Correct.
 18 Q. Okay. They were concerned about the
 19 powder from the silica angle.
 20 A. No.
 21 Q. They were not?
 22 A. No.
 23 Q. Okay. Did it have any silica in it?
 24 A. No.
 25 Q. All right. It says, "The laboratory

1 here in Canada and at FIL" -- and that's Foseco
 2 International?
 3 A. Correct.
 4 Q. -- "have been working very hard to
 5 produce satisfactory products. Our need now is
 6 for full-scale tests at the earliest possible
 7 moment of asbestos-free products followed
 8 before the end of the year by silica-free
 9 products."
 10 Did I read that right?
 11 A. Yes.
 12 Q. Okay. At this time do you know
 13 whether or not Mr. Jago had his individual --
 14 his full-time individual for any period of six
 15 months?
 16 A. I, I don't know for sure, but I
 17 believe he did get the person, yes.
 18 Q. Okay. He says the need for the
 19 asbestos substitutes is economic. He doesn't
 20 talk about the health effects being the reason
 21 to develop the asbestos-free substitutes,
 22 correct?
 23 A. Well, he's mentioning lower hazard
 24 hot tops, yes, and he is talking about that in
 25 order to -- for the business to continue, we

1 needed -- both needed to be addressed.
 2 Q. To be clear, he doesn't say in order
 3 to ensure that we are not passing along any
 4 health risks to end users, we need an asbestos
 5 substitute. He says in order for our own
 6 economic survival, we need to offer a low
 7 hazard or an asbestos-free substitute, correct?
 8 A. I'm, I'm not sure what his intention
 9 is there. I know that there was concern about
 10 the -- our progress and commit with our
 11 asbestos-free programs.
 12 Q. He doesn't talk about health of the
 13 end user.
 14 A. He doesn't, no.
 15 Q. He talks about the economic survival
 16 of Foseco Inc.
 17 MR. KADISH: Objection; asked and
 18 answered.
 19 THE WITNESS: Correct.
 20 MR. PANATIER: All right. You can
 21 set that aside.
 22 This next one will be Exhibit
 23 29.
 24 (Money Deposition Exhibit No. 29
 25 was marked for identification.)

1 BY MR. PANATIER:
 2 Q. All right, sir. So this is a memo
 3 from Mr. Jago to Dr. Phoenix. Do you see that?
 4 A. Yes.
 5 Q. This is regarding the health hazard
 6 caution labels for asbestos products, right?
 7 A. Yes.
 8 Q. July 14th, '72, true?
 9 A. Yes.
 10 Q. Okay. He says, "The regulations as
 11 published 7 June make it mandatory to label all
 12 products which contain asbestos as follows,"
 13 and he puts the caution label, right?
 14 A. Correct.
 15 Q. Now, he actually cites to the
 16 regulations published 7th of June, which you
 17 and I looked at, correct?
 18 A. Yes.
 19 Q. He says, "This regulate" -- "This
 20 label is required unless the fiber has been
 21 modified by a bonding agent so that during the
 22 foreseeable" -- and, again, there's some big
 23 blots of ink or something on here, so we're not
 24 going to be able to see all of it, but I
 25 believe it's "foreseeable future use, handling,

Page 250 1 storage, disposal, processing, or 2 transportation. No airborne" -- something -- 3 "of asbestos fiber in excess of the exposure 4 limit prescribed will be released." 5 Is that about right? 6 A. That's correct. 7 Q. "This regulation is much tighter 8 than was published or we expected. Originally, 9 drafts stated that the products containing less 10 than 5 percent would not have to be labeled." 11 Is that what you were referring to 12 before? 13 A. Well, it -- this isn't, this isn't 14 the memo or letter that I said where the 15 5 percent came. That was from the OSHA 16 Reporter. And that's where Jago got this 17 5 percent from. 18 Q. Right. They, they learned since 19 then, of course, when it came out -- 20 A. Yes. 21 Q. -- that it didn't apply to 22 percentage, it was how much asbestos was in the 23 air. 24 A. Correct. 25 Q. He says, "In that we know that dust	Page 252 1 A. Yes. 2 Q. He acknowledges that he got a letter 3 from Mr. Jago of May 24th where he talked about 4 the asbestos content of Profax 31 and Proflex 5 G3, true? 6 A. Correct. 7 Q. Then in the highlighted paragraph he 8 says, "You indicate that after heating to 2,000 9 degrees Fahrenheit the residual asbestos fiber 10 content will be below 2 percent in the case of 11 Profax and below 5 percent in the case of 12 Proflex G3 and that the former value was well 13 within OSHA limits. As you are no doubt aware, 14 OSHA promulgated a permanent health standard 15 for asbestos dust, which was published in the 16 Federal Register June 7th, '72. No mention is 17 made in the standard as far as I can observe 18 about any delineation between the safe and 19 hazardous percentage of asbestos in material. 20 As a matter of fact, asbestos fibers are 21 defined as any asbestos which is longer than 5 22 microns in size. And under the section on 23 labeling, cautionary labels must be affixed to 24 all raw materials and products containing 25 asbestos fibers unless the fibers have been
Page 251 1 may be formed during the use of this product, I 2 believe we should proceed with the application 3 of labels to all Profax and Proflex customers 4 as soon as possible." 5 And that's what Jago says, right? 6 A. Yes. 7 Q. At no time does Mr. Jago say this 8 dust I'm talking about has zero asbestos in it 9 because I did a test; does he? 10 A. No, he does not. 11 Q. Okay. He actually says we should go 12 ahead and put labels on it based on the 13 regulation being much tighter than we thought, 14 right? 15 A. Correct. 16 Q. Okay. You can set that aside, sir. 17 This will be Exhibit 30. 18 (Money Deposition Exhibit No. 30 19 was marked for identification.) 20 BY MR. PANATIER: 21 Q. All right. Sir, have you seen this 22 before? 23 A. Yes. 24 Q. This is a communication from United 25 States Steel to Mr. Jago at Foseco, right?	Page 253 1 modified by a bonding agent, coating, binder, 2 or other material so that during any reasonably 3 -- reasonable foreseeable use airborne 4 concentrations in each of the exposure limits 5 will not be released." 6 And you and I went through that in 7 the regulation. We saw that exact statement, 8 correct? 9 A. We saw a statement. I can't 10 remember the exact word in there. 11 Q. It certainly -- what he is 12 recounting here as the requirements is no 13 different than what we read. 14 A. That's correct. 15 Q. Okay. "Therefore, the use of your 16 two indicated hot tops will require that the 17 dust exposure of the workers utilizing these 18 must be periodically determined." 19 To this date, Foseco never conducted 20 such a determination, correct? 21 A. Correct. 22 Q. And, in fact, never did. 23 A. Never did, no. 24 Q. "This asbestos standard is, in my 25 opinion, so restrictive that it will probably

Page 254 1 result in the substitution of asbestos in 2 various products in which it is today used." 3 And that was written to Mr. Jago, 4 right? 5 A. Correct. 6 Q. The label that ultimately went on 7 the products went on about two months later. 8 A. Correct. 9 Q. All right. Thank you. 10 Next will be Exhibit 31. 11 (Money Deposition Exhibit No. 31 12 was marked for identification.) 13 BY MR. PANATIER: 14 Q. Sir, that's a Foseco memo from 15 Mr. Jago to R.T. Callahan, right? 16 A. Yes. 17 Q. Who is Callahan? 18 A. He was one of the engineers in the 19 plant. 20 Q. Okay. This is just about two weeks 21 after the last letter. It's dated August 1st, 22 1972, subject, caution labels for asbestos 23 containing products. 24 And what Jago says is, "It is my 25 considered opinion that our existing	Page 256 1 Q. "Pre-mix contains asbestos fiber in 2 unbonded condition, and a little dust is 3 created when the product is dumped onto the 4 mixing tank and potentially could be classified 5 as a hazardous material." 6 What's Premix? 7 A. Premix is a slurry Profax that was 8 sold to one customer. 9 Q. Okay. Which customer? 10 A. Bethlehem Johnstown. 11 Q. So he says, "It seems the caution 12 label," and he quotes it again, "will be needed 13 on Proflex and Premix but not on Profax." 14 A. That's what he said, yes. 15 Q. All right. "I, therefore, recommend 16 that you obtain stick-on labels for 17 applications -- application to all Proflex and 18 Premix boxes," and he says what the label 19 should look like. 20 My question is, he has now told the 21 folks at Foseco don't put a label on Profax, 22 correct? 23 A. Correct. 24 Q. Did a label ever go on Profax? 25 A. Yes.
Page 255 1 formulation of Profax 31 does not constitute 2 any hazard to users in the -- as the asbestos 3 fiber is locked into place by phenolic resin. 4 In normal operation dust is not generated 5 during use except after the board has been 6 subjected to sufficient high temperature to 7 alter the crystalline structure of the fiber 8 and change its toxic properties." 9 Now, you've talked about that being 10 his belief, correct? 11 A. Yes. 12 Q. Okay. "Proflex, however, currently 13 contains a higher proportion of asbestos than 14 Profax and the degree of bonding is less so 15 dusty" -- "less so, dusting during use may 16 possibly be encountered and, therefore, the 17 product could possibly be regarded as 18 potentially hazardous." 19 So he's now distinguishing between 20 Proflex and Profax because there's a little bit 21 more asbestos in Proflex, correct? 22 A. That's correct. 23 Q. Did he ever do this dusting test on 24 Proflex? 25 A. No.	Page 257 1 Q. When? 2 A. Same as it went on the others. 3 Q. So a month or so later? 4 A. Yeah. 5 Q. Did he change -- 6 A. No, no. I'm sorry. A month or so 7 later. Later than the memo. 8 Q. That's correct. 9 A. Correct. 10 Q. Right. In September sometime? 11 A. Correct. 12 Q. So did Mr. Jago change his mind or 13 did someone change it for him? 14 A. No, Jago changed his mind. 15 Q. Okay. You can set that aside, sir. 16 All right. This one is going to be 17 Exhibit 33. 18 MR. INABINET: 32. 19 MS. REPORTER: Yes, 32. 20 MR. PANATIER: Whatever. 32. New 21 sticker. There you go. 22 (Money Deposition Exhibit No. 32 23 was marked for identification.) 24 MR. INABINET: Is there supposed to 25 be something highlighted here, Chris?

Page 258 1 MR. PANATIER: No. 2 BY MR. PANATIER: 3 Q. All right. Sir, do you know whose 4 signature that is? 5 A. Yes, John Chapel. 6 Q. All right. Who is Mr. Chapel? 7 A. He was another technical person at 8 FIL. 9 Q. Okay. So this is the international 10 Foseco? 11 A. Yes. 12 Q. Okay. Did this go to everybody? 13 A. Yes. 14 MR. KADISH: Objection; form. 15 BY MR. PANATIER: 16 Q. This is dated 2nd February 1973, 17 right -- or 26th February '73? 18 A. Correct. 19 Q. It is entitled "Removal of silica 20 and asbestos from Foseco insulating products." 21 And it says, "There is no doubt of the growing 22 universal awareness by both works or public 23 health authorities and trade unions of the 24 potential health hazards caused by these 25 materials, both of which have been and still	Page 260 1 already talked about had already eliminated 2 asbestos. 3 A. Some had, yes. 4 Q. Right. And by now, we're talking 5 1973, there are probably others, not just 6 Australia, right? 7 A. Correct. 8 Q. Have you ever seen a memo where 9 Australia came back and said the wheat flour 10 stuff didn't work? 11 A. I don't believe so, no. 12 Q. Okay. All right. The next 13 paragraph, sir. "Total or partial replacement 14 may not be possible without some increase in 15 cost, either due to higher RM costs or loss in 16 efficiency." 17 What's RM? 18 A. Raw material. 19 Q. Okay. So again, we're seeing the 20 factor of cost come in with replacement, right, 21 in evaluating replacement? 22 A. That's correct. 23 Q. Okay. The next paragraph. Go ahead 24 and go to the next paragraph. "Rather than 25 wait until legislation, I recommend that all
Page 259 1 are widely used in Foseco insulating products. 2 Because of their physical properties and 3 cost-effectiveness, Foseco has developed their 4 use to the stage where they have brought 5 considerable economic benefits to the steel 6 maker." 7 Some operating -- this is -- yours 8 is not highlighted, so I'm going to tell you 9 where it is. The next paragraph starting with 10 "However," do you see that? 11 A. Yes. 12 Q. It says, "However, the climate of 13 public opinion is changing and there is 14 considerable pressure on industry in general of 15 which steelmaking is a major part to reduce 16 pollution and health hazards in all forms. The 17 legislative pressure and permissible levels 18 will vary from country to country. Some 19 operating companies have already had to 20 eliminate either or both silica and asbestos or 21 reduce them to a minimal level. We must assume 22 that sooner or later this will be a universal 23 requirement." 24 So some of the different companies 25 within the Foseco family of companies we've	Page 261 1 operating companies face up to the situation 2 and begin immediately development programs for 3 the selective removal of both silica and 4 asbestos." 5 Did -- Mr. Chapel, was he someone 6 who could tell the other companies what to do 7 or truly just recommend it? 8 A. He was, he was a technical person 9 and he was making statements. He was not -- he 10 had no authority over anything. 11 Q. Okay. Last paragraph. "When 12 satisfactory alternative formulations have been 13 developed, they can be locked away until such 14 time as legislation declares their need." 15 So what he's saying in that sentence 16 is even -- we may even develop satisfactory 17 alternatives that work. 18 A. That's what he says. 19 Q. And we can just lock them away until 20 legislation forces us to use them, right? 21 MR. KADISH: Objection; speculation. 22 THE WITNESS: That's, that's what he 23 says. And I, I read that when I first saw 24 it, and I talked to Jago and he said it was 25 a nonsense memo. Here we are working to

Page 262 1 try to get asbestos-free, and we've got 2 some technical guy in the center saying if 3 we get formulations that work we should 4 lock them away. He said it was a 5 ridiculous statement to make. And 6 obviously we did not pay heed to that. 7 BY MR. PANATIER: 8 Q. What was the date of the memo that 9 Mr. Jago sent out saying that what Mr. Chapel 10 said was not to be followed or not to be given 11 any credit? 12 A. There was no memo. I just talked to 13 Ted on it. 14 Q. Right. So you and Ted shared a 15 moment about what he said, right? 16 A. Right. 17 MR. KADISH: Objection; form. 18 BY MR. PANATIER: 19 Q. There was no corporate response to 20 this where they said, hey, what you're saying 21 is not a reasonable position to take? 22 A. We did not, no. 23 Q. You agree that's not a reasonable 24 position to take? 25 A. It definitely isn't.	Page 264 1 or doctors are involved, right? 2 A. That's what he's saying. But, 3 again, it's a technical person trying to make 4 comments on areas which are not his expertise, 5 safety, commercial. It was a nonsense memo. 6 It was a nonsense comment. 7 Q. It was to a lot of people. We can't 8 see everything up here, but it looks like it 9 says managing directors, something, something, 10 all of company, plus regional directors. 11 Right? 12 A. Correct. 13 Q. It went to a lot of people, right? 14 A. It went to a widespread around the 15 Foseco world, but it probably wouldn't go to -- 16 let me see. 20 people probably it went to. 17 Q. Okay. Did -- to your knowledge, did 18 any of those 20 people say that is not our 19 company attitude towards this issue? 20 A. Jago. 21 Q. Said it to you? 22 A. Yes. 23 Q. That's all? 24 A. That's all, yes. 25 Q. Okay. You can set it aside, sir.
Page 263 1 Q. But Mr. Chapel certainly felt 2 comfortable writing that, right? 3 MR. KADISH: Objection; form. 4 THE WITNESS: He was a technical 5 person in, in FIL. 6 BY MR. PANATIER: 7 Q. Are you aware of any -- I'm not just 8 talking about Mr. Jago now. I'm talking about 9 anybody at Foseco, Inc., in the U.S. that said 10 either I agree with what Mr. Chapel is saying, 11 we need to set it aside until we're forced to 12 do it or I totally disagree with what 13 Mr. Chapel said. 14 A. The only documents I've seen and the 15 only conversation is what I had with Ted Jago 16 once I read this memo. 17 Q. Okay. He says, "On the other hand, 18 insulators which do not contain either silica 19 or asbestos could be an effective weapon 20 against price-cutting competition, particularly 21 if union officials and work doctors are made 22 aware that such products exist." 23 So he's saying an advantage on the 24 other hand to asbestos or silica-free products 25 could be to undercut the competition if unions	Page 265 1 Okay. This one is going to be 2 Exhibit 33. 3 (Money Deposition Exhibit No. 33 4 was marked for identification.) 5 MR. PANATIER: You know, I don't 6 even have to go through that one. We can 7 if you want. 8 MR. INABINET: Let me read it first. 9 MR. PANATIER: But I can save time. 10 MR. INABINET: I know why I want it. 11 Do you? 12 MR. PANATIER: I do. 13 MR. INABINET: So we're still on 33? 14 MR. PANATIER: 33, yeah. I'm just 15 going to pull some of these remaining ones 16 and not use them. 17 BY MR. PANATIER: 18 Q. Sir, is this the Foseco, Inc., memo 19 you've seen before? 20 A. Yes. 21 Q. This is from Mike Wood, correct? 22 A. Yes. 23 Q. Who is that? 24 A. He was the plant manager of 25 Cleveland.

Page 266 1 Q. All right. It says, "A number of 2 employees have expressed a concern over their 3 reaction to the new raw material, RMX3562." Is 4 that -- what is it? 5 A. It's wollastonite. 6 Q. Wollastonite? 7 A. Yes. 8 Q. Okay. "There are some things about 9 this material I feel you should know. OSHA has 10 recently advised American industry that it must 11 find substitutes for asbestos. Asbestos is a 12 widely-used material that has been the backbone 13 of many Foseco products for years. Finding an 14 adequate substitute has been a top priority at 15 Foseco. The very future of the company depends 16 on our success in accomplishing this." 17 Again, they're talking about company 18 welfare as the chief reason to find an adequate 19 substitute, correct? 20 MR. KADISH: Objection to form. 21 THE WITNESS: He mentions that, but 22 he's also -- it's, it's not just that. 23 BY MR. PANATIER: 24 Q. Right. I mean, maybe there's 25 something in his head he didn't put down on	Page 268 1 BY MR. PANATIER: 2 Q. In fact, every time -- and we're at 3 1973 now. We've gone over eight or nine years 4 worth of stuff. Every time they talk about the 5 need for a substitute, it has every time been 6 related to cost and the survival of the 7 company. It has never once addressed the 8 health of the end user, correct? 9 MR. KADISH: Objection; form. 10 THE WITNESS: On the documents we've 11 looked at, you're probably correct. 12 BY MR. PANATIER: 13 Q. Okay. So you can set that aside. 14 All right. This will be Exhibit 34. 15 (Money Deposition Exhibit No. 34 16 was marked for identification.) 17 BY MR. PANATIER: 18 Q. Sir, this is a confidential memo 19 from Foseco, July 20, 1973, correct? 20 A. Correct. 21 Q. Have you seen this before? 22 A. Yes. 23 Q. All right. It says, "Minutes of a 24 meeting, update of progress on nonasbestos 25 program," from July 18th, 1973.
Page 267 1 paper, right? 2 MR. KADISH: Objection; speculation. 3 BY MR. PANATIER: 4 Q. Because what he writes on the paper 5 is finding an adequate substitute is what the 6 future of the company depends on, correct? 7 MR. KADISH: Objection; asked and 8 answered. 9 THE WITNESS: He's saying finding an 10 adequate substitute has been a top priority 11 and then he makes a separate comment. 12 This, this very future -- the very future 13 of the company depends on the success in 14 accomplishing this. 15 BY MR. PANATIER: 16 Q. Finding a substitute, right? 17 A. Correct. 18 Q. He doesn't say finding an adequate 19 substitute has been a top priority at Foseco so 20 we don't endanger the users of our products, 21 does he? 22 MR. KADISH: Objection to form. 23 THE WITNESS: He did not say that, 24 no. 25	Page 269 1 And it says, first paragraph, "This 2 meeting was called to discuss and communicate 3 the current situation of asbestos-free Profax 4 and Proflex production?" 5 It says the agenda is indicated by 6 the heading shown. "1," and it's highlighted, 7 "OSHA and customer requirements and Foseco 8 commitments. HDS, now that looks like H.D. 9 Shephard? 10 A. Correct. 11 Q. Who's he? 12 A. Harry Shephard. He was one of the 13 steel mill people. 14 Q. Which one of the steel mill people 15 was he? 16 A. He was really responsible for 17 marketing. 18 Q. He was a marketing guy? 19 A. Yes. 20 Q. So he says, "The problem with our 21 present asbestos bearing board is in the steel 22 mill stripping and mold cleaning areas where 23 particles blow into the air due to OSHA 24 regulations on the particle count." 25 So he's talking about really Phase

Page 270 1 II of the product really. The boards have been 2 put in, the mold's been poured, and now he's 3 talking about cleaning out the mold, right? 4 A. Yes, he is. 5 Q. So he's talking about there is -- he 6 said the problem with our present asbestos 7 bearing board is on that end of the process due 8 to OSHA regulations on the particle count, 9 true? 10 A. That's correct. 11 Q. We know that OSHA regulations on the 12 particle count at this time are -- there's a 13 PEL of 5 fibers per cubic centimeter, correct? 14 A. Correct. 15 Q. So he's saying they have a problem 16 with the OSHA asbestos regulation, right? 17 MR. KADISH: Objection; form. 18 THE WITNESS: Sorry. Will you 19 repeat that again? 20 BY MR. PANATIER: 21 Q. He's saying they have a problem on 22 the back end of the procedure where the boards 23 are removed with excess asbestos being in the 24 air, correct? 25 MR. KADISH: Same objection.	Page 272 1 the particles blow into the air after the hot 2 tops are being cleaned off the ingot in the 3 mold, right? 4 A. Correct. 5 Q. Okay. Is he talking about some 6 other particle other than asbestos there? 7 A. No, not that I'm aware of. 8 Q. He's, he's talking about asbestos, 9 right? 10 MR. KADISH: Objection to form. 11 THE WITNESS: Well, I'm assuming he 12 does because the meeting is on nonasbestos 13 programs. So although he doesn't 14 specifically mention that in one, I read it 15 as asbestos. 16 BY MR. PANATIER: 17 Q. All right. So on the next page, I 18 just had a question about this. It says at 19 Copperweld. Where is that? 20 A. It's a -- it's a steel mill 21 customer. I believe it's in Ohio. 22 Q. Okay. "At Copperweld we are 23 supplying an asbestos-free product. But as 24 with all the products, there could be some 25 asbestos-containing boards due to accidental
Page 271 1 THE WITNESS: No. He's, he's saying 2 that there, there could be a problem with 3 the particles after, after stripping. 4 BY MR. PANATIER: 5 Q. Well, let's look at his words. He 6 doesn't say the possible problem, right? 7 MR. KADISH: Objection; form. 8 THE WITNESS: He's saying that there 9 may be particles in the air and there's 10 regulations that dictate the count. 11 BY MR. PANATIER: 12 Q. Well, does, does -- does the word 13 "may" appear in that sentence? 14 A. No. 15 Q. Does the phrase "maybe"? 16 A. No. 17 Q. Does "possible" appear? 18 A. No. 19 Q. Does "potential" appear? 20 A. No. 21 Q. He says "the problem," right? 22 A. He's saying that the problem is 23 where particles blow into the air, and he says 24 there's OSHA regulations governing that. 25 Q. Right. On the particle count where	Page 273 1 contamination." 2 What does that mean? 3 A. It means that at this time frame we 4 had some recipes that we were trying 5 asbestos-free and some, and some not. But 6 what, what happened on the floor is that when 7 we were developing products that did not form 8 correctly before going through the oven or -- 9 through the oven, which, which were not 10 working, they would pick those boards up and 11 they would put one or two in the pulper when 12 they were mixing the same recipe. 13 And what we made sure was or tried 14 to make sure is that they did not put those one 15 or two boards in the mix if it was an 16 asbestos-free recipe with something that may 17 have contained, contained some of the low 18 asbestos board. Now, we placed it as best we 19 could. Did it happen? I don't know. Is there 20 a possibility? Yes. 21 Q. Okay. What he's saying is it's 22 possible that some of those asbestos boards 23 could have been picked up and then put into the 24 asbestos-free pulper? 25 A. Yes.

Page 274 1 Q. And so the products could have ended 2 up with some, some asbestos? 3 A. A minimal amount, correct. 4 Q. Okay. He also says, "or deliberate 5 dilution with Profax 31 to solve forming 6 problems." What does that mean? 7 A. I'm not sure what he means. 8 Q. Well, deliberate means on purpose, 9 right? 10 A. Yes. 11 Q. Profax 31 is asbestos-containing, 12 right? 13 A. I'm not sure whether it was or not 14 then. I would guess from this it is, yes. 15 Q. Okay. What he's saying is there's 16 two ways asbestos may end up in a -- what is 17 supposed to be an asbestos-free product. One 18 is if an asbestos board is accidentally picked 19 up and put into the pulper. 20 A. Correct. 21 Q. The other way is it's done on 22 purpose. 23 A. It would be saying that they may 24 have tried some very small amounts to see if it 25 would work.	Page 276 1 slurry in a wet form or the shape in a wet 2 form would be -- keep its integrity as far 3 as a shape before it got through the oven. 4 So they could have just picked those up and 5 threw them back in. 6 BY MR. PANATIER: 7 Q. Right. To help with the forming, 8 they might have added some asbestos boards. 9 A. Or, or asbestos in -- asbestos- 10 containing product in the green state. 11 Q. Right. Either way, he certainly 12 knows of the reason why they would add asbestos 13 because of a specific problem, a forming 14 problem, right? 15 A. Correct. 16 Q. And he has certainly contemplated or 17 seen it done deliberately, correct? 18 A. No, I don't, I don't know whether he 19 has or not. He says there could be a 20 possibility. I don't believe he's saying that. 21 Q. This, this Foseco employee is 22 allowing for the possibility that another 23 Foseco employee or employee has deliberately 24 added asbestos to what is supposed to be an 25 asbestos-free mix, correct?
Page 275 1 Q. And then shipped them out? 2 A. I don't know whether we did or not. 3 It's whether they worked. 4 Q. Well, he's talking about at 5 Copperweld, a specific customer of Foseco, 6 right? 7 A. Yes. 8 Q. And he says that as with all the 9 products, there could be some asbestos- 10 containing boards that are supposed to be 11 asbestos-free due to either accident or our own 12 deliberate addition of asbestos. 13 A. Yeah, that's what he's saying. And 14 he didn't say it did happen. He's saying it 15 could happen. So it's really a warning, we 16 better be careful, which we trying to be. 17 Q. Well, he wouldn't have thought, 18 would he, to include the option that someone 19 did it on purpose unless he knew that it had 20 happened in the past, correct? 21 MR. KADISH: Objection; form; 22 speculation. 23 THE WITNESS: No, it could be that 24 the asbestos-free for this account did not 25 form good enough to, to -- so that the	Page 277 1 MR. KADISH: Objection; asked and 2 answered. 3 THE WITNESS: A small amount, yes. 4 BY MR. PANATIER: 5 Q. Okay. Did he say how much? 6 A. No. 7 Q. You said a small amount, right? 8 A. Yeah, because if it was one board, 9 for example, they threw into the mix and let's 10 supposed it had 2 percent asbestos, it would be 11 very minimal amount. 12 Q. If it was one board. What if it was 13 20 boards? 14 A. But then it wouldn't work in the, in 15 the pulper. 16 Q. Okay. What about 10 boards? 17 A. No. 18 Q. But he doesn't say how many, does 19 he? 20 A. No. 21 Q. Okay. This is going to be Exhibit 22 35. 23 (Money Deposition Exhibit No. 35 24 was marked for identification.) 25

1 BY MR. PANATIER:
 2 Q. Sir, this is a memo from August
 3 14th, 1973?
 4 A. Yes.
 5 Q. It's a Foseco, Inc., memo. It is
 6 from W.C. Fletcher?
 7 A. Yes.
 8 Q. It says corporate quality control.
 9 Is that -- was he the head of that?
 10 A. Yes.
 11 Q. Okay. Let me just skip to the
 12 second highlight.
 13 A. Okay.
 14 Q. It says, "It should be noted that
 15 the starch binder product." What, what was
 16 that?
 17 A. The starch was a product we were
 18 trying to use in the nonasbestos recipes as a
 19 binder.
 20 Q. Okay. "It should be noted that the
 21 starch binder product is to take priority over
 22 the nonasbestos program at the present time.
 23 But since any proposed engineering changes
 24 require time for design and ordering of
 25 equipment, this discussion is relevant

1 immediately to enable such changes to be
 2 planned."
 3 So it, it looks like there was a
 4 starch binder product that put the nonasbestos
 5 program on hold for at least some temporary
 6 time, correct?
 7 A. That's correct. And the reason
 8 being is that the binder in the Profax board
 9 were a liquid resin, and there was problems
 10 with the liquid resin suppliers. Don't ask me
 11 what the problems were. But we could not get
 12 liquid resin.
 13 So what we had to do was go to a
 14 powdered resin and we also tried starch. And
 15 so it was -- it was of very little consequence
 16 going through the asbestos-free program when we
 17 had other significant variations in some of the
 18 recipe formulations. So that's why the starch
 19 had a priority.
 20 Q. I understand. But it was a reason
 21 to set the nonasbestos program aside at least
 22 for that period of time?
 23 A. It was.
 24 (Deposition Exhibit No. 36
 25 was marked for identification.)

1 BY MR. PANATIER:
 2 Q. Okay. Sir, I've handed you Exhibit
 3 36. That's an October 12, 1973, memo from
 4 Brian McConnell to Geoff Fenton, right?
 5 A. Yes.
 6 Q. Who is Brian McConnell?
 7 A. He was one of our salesman.
 8 Q. All right. He's talking about the
 9 USS Fairless, which is a Navy ship, right?
 10 A. No.
 11 Q. What is it? I don't know what it
 12 is.
 13 A. It's U.S. Steel.
 14 Q. Oh. Oh. Okay. U.S. Steel. What's
 15 a 699 ring?
 16 A. It is a design for one of their
 17 ingots.
 18 Q. So it's basically hot top ring?
 19 A. Yes.
 20 Q. The whole time I was like what are
 21 they doing with a hot top on a ship. Again,
 22 I'm a lawyer, not an industrialist. Okay.
 23 Sir, what it says here is, "Fairless
 24 keeps throwing barbs at me that Ferro is
 25 supplying a completely asbestos-free ring. All

1 of their operating personnel appear to be aware
 2 of the fact that our ring is not asbestos-free
 3 and hint that we could loss some business for
 4 it. At the moment I believe this to be
 5 friendly sparring. However, as I indicated
 6 some time ago, it could become serious and cost
 7 us business."
 8 Did I read that right?
 9 A. Yes.
 10 Q. "Please advise me what our timetable
 11 is to develop an asbestos-free ring for
 12 Fairless."
 13 Do you know when they provided an
 14 asbestos-free ring for Fairless?
 15 A. I, I -- I do not off the top of my
 16 head, no.
 17 Q. Okay. But this man -- I guess he's
 18 a salesperson?
 19 A. Yes.
 20 Q. He was concerned about, again, a
 21 need for an asbestos-free ring because it would
 22 be costing them business otherwise, correct?
 23 A. Because the competitor had an
 24 asbestos-free ring.
 25 Q. This will be Exhibit 37.

Page 282 1 (Money Deposition Exhibit No. 37 2 was marked for identification.) 3 BY MR. PANATIER: 4 Q. Have you seen that before, sir? 5 A. Yes. 6 Q. That's dated July 24th, 1974, Foseco 7 memo. It is to production -- what is that? 8 Superintendent? 9 A. Yes. 10 Q. And also supervisors from the plant 11 safety committee. This is an instruction on 12 how to train new employees on asbestos, 13 correct? 14 A. It's, it's for training employees. 15 I don't know whether it's just new employees. 16 Q. All right. It says -- 17 A. I may need to read it all, but... 18 Q. Okay. If you feel you need to, let 19 me know. We're going to talk about just page 20 1. Okay? 21 A. That's fine. You, you carry on. 22 Q. Okay. Thank you. 23 It says, "All new employees must be 24 instructed as to the dangers of breathing 25 airborne asbestos fiber and the locations in	Page 284 1 mezzanine, at the pulpers -- at the pulpers 2 themselves, during charging, and at the 3 refinishing stage of packing. The danger also 4 exists for those employees sweeping or 5 vacuuming the floors in those areas." 6 Right? 7 A. Yes. 8 Q. At this time in 1974, was Foseco 9 still devoting greater energy to protecting its 10 employees than it was in putting out a safe 11 product? 12 MR. KADISH: Objection; form. 13 THE WITNESS: I don't know how to 14 answer your question. I think I've 15 answered that before. They, they are 16 taking whatever reasonable steps they could 17 based on the information available at the 18 time. 19 BY MR. PANATIER: 20 Q. Okay. So the question is, were they 21 putting greater effort into protecting their 22 employees at this time in the mid-'70s than 23 they were putting out a safe product for end 24 users? 25 MR. KADISH: Same objection; asked
Page 283 1 the plant where this hazard is present. 2 Basically, inhaling asbestos fibers of greater 3 than 5 micron size at a later date -- can at a 4 later date cause lung cancer. Once the lung -- 5 once in the lungs, the fibers can be retained 6 and may affect the lungs many years later; 7 hence, breathing heavily laden air 8 occasionally or lightly contaminated air 9 continuously are equally dangerous." 10 What he's saying is basically heavy 11 exposures for a short term may be just as 12 dangerous as long exposures that are lower, 13 right? 14 A. That's what he's saying. 15 Q. "No effects will be noticed by an 16 affected person until the fibers cause 17 malignant tumors, at which point the individual 18 is unlikely to be cured." 19 Did I read that right? 20 A. Yes. 21 Q. "They know that there are asbestos 22 diseases, many of which there is no cure for." 23 A. Correct. 24 Q. "The hazards of airborne asbestos is 25 present in the batching area of the pulping	Page 285 1 and answered. 2 THE WITNESS: Yeah, I've already 3 said that. 4 BY MR. PANATIER: 5 Q. You can set that aside. 6 Now, that memo we just looked at, 7 talking about how to train new employees, 8 right, for the folks making the product, how 9 close were they to the final boxed product in 10 terms of distance? How far were they? 11 A. We're talking feet? Yards? I mean, 12 what -- 13 Q. Yeah, whatever distance you, you 14 want to use. Metric? 15 A. If, if -- if the pulping platform 16 was, say, as big as this. 17 Q. Big as this table? 18 A. Yeah. 19 Q. Okay. So it's about, I don't know, 20 12 feet long, something like that. 21 A. And then the slurry would be sent to 22 a forming machine, which would be maybe as far 23 away as, as the wall over there. 24 Q. Okay. So maybe 30, 40 feet, 25 something like that?

Page 286 1 A. Probably. 2 Q. Okay. 3 MR. INABINET: Are we talking one 4 plant? 5 BY MR. PANATIER: 6 Q. Yeah, within the plant. 7 A. Within the plant. 8 Q. Within one plant. 9 MR. INABINET: Which plant? 10 THE WITNESS: I was assuming 11 Cleveland plant. 12 MR. PANATIER: Yeah. 13 MR. INABINET: Okay. 14 THE WITNESS: And then from that 15 machine they would form what we call green 16 products, which would then go on a conveyor 17 belt maybe the length -- half the length of 18 this table. And then it would go into an 19 oven probably the length of this room or, 20 or close to it or less maybe, somewhere 21 between the length of this table and the 22 room. And then from there they would come 23 out of the oven, and they would go into a 24 finishing area where the boards would be 25 looked at and, and packaged.	Page 288 1 components? 2 A. Correct. 3 Q. Right? And so you -- how many would 4 be shrink-wrapped together? 5 A. Again, it depends on the size of the 6 ingot they were being sent to. 7 Q. Where did the -- where did the 8 caution label go? 9 A. On the shrink-wrap. 10 Q. On the shrink-wrap. 11 So there would be one label per 12 shrink-wrap and then a number of hot top boards 13 in it? 14 A. There would to the best of my -- 15 there would be four, one on each. 16 Q. One on each what? 17 A. On each side. 18 Q. One on each side. Okay. 19 So whenever it got to the customer, 20 the steel mill, someone would take a knife and 21 cut the plastic off, right? 22 MR. KADISH: Objection to form; 23 speculation. 24 THE WITNESS: Only when they were 25 going to use the boards out of that
Page 287 1 BY MR. PANATIER: 2 Q. Okay. And the finishing area, is 3 that where the workers would knock off any 4 barbs or corners. 5 A. Linish, like we talked about, yes. 6 Q. Right. And then the packaging would 7 have been right next to that? 8 A. It would be -- I'm not sure. I 9 can't remember exactly. But what it did is 10 they were then picked up and taken over to a, a 11 shrink-wrap machine. So it -- there wasn't an 12 automatic continual process. 13 Q. Right. The hot tops themselves were 14 in cardboard boxes? 15 A. Time frame. It depends what -- 16 Q. In the mid-'70s. 17 A. No, they were shrink-wrapped. 18 Q. So they were just -- the raw piece 19 of material just had plastic shrink-wrapped on 20 it? 21 A. What it was was there would be a 22 stack of boards, and all that stack would be 23 shrink-wrapped. 24 Q. And you say a stack of boards. 25 You're talking about the individual hot top	Page 289 1 shrink-wrap. 2 BY MR. PANATIER: 3 Q. Sure, sure. So when they were ready 4 to use them, someone would open it up with a 5 knife or whatever, right? 6 A. Yes. 7 MR. KADISH: Objection; form. 8 BY MR. PANATIER: 9 Q. Take off the shrink-wrap? 10 A. Yes. 11 MR. KADISH: Objection to form. 12 BY MR. PANATIER: 13 Q. And when they removed the 14 shrink-wrap, they removed the caution label? 15 A. Correct. 16 MR. KADISH: Objection; form. 17 BY MR. PANATIER: 18 Q. Okay. Now, prior to September of 19 '72, there was never a caution label, right? 20 A. Correct. 21 Q. The caution label after September of 22 '72 would have been on the shrink-wrap which 23 would have been removed when the shrink-wrap 24 was removed? 25 A. Correct.

Page 290 1 Q. There was never a caution label in 2 any way affixed to the individual boards? 3 A. No. 4 Q. Okay. For the folks working in 5 manufacturing but working around the finished 6 product after September of '73, did Foseco 7 train them on the hazards of asbestos? 8 A. All, all employees were, were 9 trained on hazards of asbestos. 10 Q. Okay. But those folks certainly saw 11 the caution label, right? 12 A. Yes. 13 Q. And they, and they still needed to 14 be trained on the hazards of asbestos? 15 A. It was part of that safety committee 16 to educate the employees. 17 Q. The caution label as it existed on 18 the Foseco hot tops then wasn't enough on its 19 own for those employees to see that and truly 20 appreciate the hazards, correct? 21 MR. KADISH: Objection. 22 THE WITNESS: Well, I don't know 23 whether it was or not, but we, we made sure 24 all the employees were, were educated. 25	Page 292 1 A. Correct. 2 Q. We've seen Mt. Braddock, we've seen 3 Chicago, and we've seen Cleveland, right? 4 A. Correct. 5 Q. So let's go ahead and under 6 "Findings" there on the first page it says, 7 "The raw materials of primary concern for this 8 evaluation are amosite asbestos, chrysotile 9 asbestos, silica flour," and then it goes on to 10 several other silica iterations, right? 11 A. Yes. 12 Q. Then if you turn to the page that is 13 890 at the bottom on the Bates stamp. 14 A. Yes. 15 Q. Okay. It says, "Conclusions and 16 recommendations Premix operation." "The 17 prevailing breathing zone concentrations of 6.6 18 fibers per milliliter of asbestos and 16.8 19 milligrams per cubic meter of silica dust are 20 considered good approximations of their 21 respective 8-hour time-weighted concentrations. 22 While they are both in excess of their TLV's, 23 the silica dust is excessive to a much greater 24 degree." 25 So this is the third result we're
Page 291 1 BY MR. PANATIER: 2 Q. Okay. Beyond what they would see on 3 the label you chose to put on it? 4 A. Correct. 5 MR. PANATIER: Okay. Let's go ahead 6 and switch the tape. 7 THE VIDEOGRAPHER: Going off the 8 video record at 3:35 p.m. at the end of 9 Tape 5. 10 (Whereupon, a recess was taken.) 11 THE VIDEOGRAPHER: Going back on the 12 video record at 3:40 p.m., Videotape 6. 13 (Money Deposition Exhibit No. 38 14 was marked for identification.) 15 BY MR. PANATIER: 16 Q. Sir, have you seen this before? 17 A. Yes. 18 Q. This is the results of another 19 industrial hygiene survey performed at the 20 Mt. Braddock plant for -- on August 27th, '74, 21 right? 22 A. Yes. 23 Q. Now, this would be the third plant 24 that we've seen an industrial hygiene survey 25 for, correct?	Page 293 1 seeing in Foseco operations where asbestos is 2 above the thresholds that are in place, 3 correct? 4 A. That's correct. 5 Q. Okay. Sir, if you would turn the 6 page, it says, "Sawing operation. The 7 prevailing breathing zone concentrations of 8 56.2 fibers per milliliter of asbestos and 13.5 9 milligrams of silica dust would not be 10 considered 8-hour averages since the operation 11 is performed for 4 to 6 hours per day. The 12 average concentrations could be one-half to 13 three-fourths of that reported. The adjusted 14 concentrations would still be well in excess of 15 their TLV's." Correct? 16 A. That's correct. 17 Q. So so far to this point, every 18 measurement we've seen in an industrial hygiene 19 survey taken in a Foseco facility for asbestos 20 has been above the guidelines in place or above 21 the levels in place by law, correct? 22 MR. KADISH: Objection; form. 23 THE WITNESS: Every one we've looked 24 at has said that, correct. 25

Page 294 1 BY MR. PANATIER: 2 Q. Okay. All right. 3 "Coping platform. The prevailing 4 breathing zone concentration of 13.3 fibers per 5 milliliter of asbestos is considered an 6 approximation of the 8-hour average only when 7 one mixer is loaded. If both were loaded, 8 however, the 8-hour average would be expected 9 to be somewhat lower. Most of the asbestos and 10 other types of dust exposure appear to be most 11 significant during the pouring of ball mill 12 dust into the loading container when loading 13 the mixer and when weighing materials under the 14 hood." 15 13.3 fibers per ml in 1974 is more 16 than twice the PEL of 5, correct? 17 A. On that average, yes. 18 Q. Okay. All right. Sir, you can set 19 that aside. 20 Why did Foseco have crocidolite 21 asbestos on hand in 1974? 22 A. They, they did not, except for by 23 mistake North American shipped some crocidolite 24 asbestos instead of the brown. And we 25 collected it up and shipped it back to them.	Page 296 1 turn to the last page, I want to ask you about 2 some of that, but actually, do you know who 3 wrote this? 4 A. Let me see. No, I, I don't. 5 Q. Okay. Have you seen it before? 6 A. Yes. 7 Q. Okay. It is written by someone at 8 Foseco, correct? 9 A. Correct. 10 Q. It is to Jerry, Jim, and Tom? 11 A. Yes. 12 Q. Who are they? 13 A. I believe this is a Mt. Braddock. 14 Q. Employee? 15 A. Yeah. I think they all are Mt. 16 Braddock employees. 17 Q. Who's Dave W? 18 A. I'm not sure who that is. I don't 19 think he was -- the, the first ones I think are 20 Mt. Braddock employees. The Dave W I'm not 21 sure. 22 Q. Okay. It just says -- the first 23 sentence there just says, "A brief analysis of 24 asbestos usage in the plant for the past two 25 months is listed below." And he lists it all
Page 295 1 Q. All right. 2 MR. PANATIER: Are we on 39? 3 MR. INABINET: 39. 4 (Money Deposition Exhibit No. 39 5 was marked for identification.) 6 BY MR. PANATIER: 7 Q. Sir, I just want to clarify that. 8 Does this document talk about that? They got 9 blue asbestos? They were not going to use it? 10 A. Correct. 11 Q. And, I guess, what? Sell it back to 12 the -- 13 A. No. We shipped it back to the 14 supplier. 15 Q. Right. I'm sorry. Sell it back if 16 you had already been billed or ship it back to 17 the supplier? 18 A. Correct. 19 Q. You can set that aside. 20 This will be Exhibit 40. 21 (Money Deposition Exhibit No. 40 22 was marked for identification.) 23 BY MR. PANATIER: 24 Q. Sir, this is a document dated July 25 19th, 1975. It's three pages long. And if you	Page 297 1 out, right? 2 A. Yes. 3 Q. Go ahead and turn to the last page. 4 He says, "It is quite apparent to me that we 5 will not ever be in compliance with the OSHA 6 standards unless the material is eliminated 7 from our process entirely. Our OSHA compliance 8 officer will return to fully investigate our 9 serious health hazard and no doubt soon. Let's 10 get going and get it out of here now before the 11 feds start tossing out serious citations which 12 are not only expensive as hell in fines but 13 also in the cost of immediate compliance." 14 Sir, it was true that Foseco had 15 received a number of OSHA violations in the 16 mid-'70s, correct? 17 A. Correct. 18 Q. They received violations at 19 Mt. Braddock, right? 20 A. Yes. 21 Q. For asbestos, correct? 22 A. Let me see them. 23 Q. Well, I'm asking if you know. 24 A. Yes. 25 Q. Okay. And they received violations

1 for asbestos at Cleveland, correct?
 2 A. I'm not sure. I, I can't remember.
 3 Q. Did they ever receive any violations
 4 for asbestos in Chicago?
 5 A. I don't know.
 6 Q. Okay. Have you been asked about
 7 this before?
 8 A. I can't remember.
 9 Q. All right. And I'll just highlight
 10 some stuff to make it a little bit quicker.
 11 Okay?
 12 MR. INABINET: Sure. Are we done
 13 with 40, Chris?
 14 MR. PANATIER: Yep. All done with
 15 that one.
 16 BY MR. PANATIER:
 17 Q. All right. Sir, I'm just going to
 18 ask you if it's true -- if certain things are
 19 true since I only have one copy and I'll give
 20 you a copy. Okay?
 21 I'm just going to ask you to verify
 22 by looking at this, is it true that Foseco
 23 received OSHA violations in -- based on an
 24 inspection in November of 1975 for exposing
 25 employees to asbestos in the Premix area,

1 cement mixing area, and pulper; they were cited
 2 for failure to place caution signs, advising
 3 employees of asbestos hazards, and failure to
 4 affix caution labels to asbestos-containing
 5 materials or their containers at the
 6 Mt. Braddock plant?
 7 And you know what? Here. Let's
 8 make that 41.
 9 (Money Deposition Exhibit No. 41
 10 was marked for identification.)
 11 MR. INABINET: You're asking does it
 12 say what it says?
 13 MR. PANATIER: Does it say what I
 14 just read off.
 15 THE WITNESS: If I can remember what
 16 you said, I'll agree. So, so --
 17 BY MR. PANATIER:
 18 Q. So here's the question. Here's the
 19 question. First of all, was Mt. Braddock cited
 20 by OSHA for violations of the Occupational
 21 Safety & Health Act specifically pertaining to
 22 asbestos?
 23 A. Yes.
 24 Q. Okay. Were they cited for
 25 overexposures, failure to place caution signs,

1 and failure to label materials containing
 2 asbestos?
 3 A. I, I need to read it through.
 4 Q. Yes, sir. You may.
 5 A. Okay. I've read it.
 6 Q. Okay. And, sir, did you see there
 7 that there are three violations of OSHA
 8 standards at the Mt. Braddock plant; one, for
 9 overexposure of employees; two, for failure to
 10 place caution signs; and, three, to -- failure
 11 to label materials containing asbestos?
 12 A. Within the plant, correct.
 13 Q. Okay.
 14 A. In, in -- I don't want it construed
 15 that caution labels was not with regard to
 16 finished products.
 17 Q. It's on something in the plant.
 18 A. Correct.
 19 Q. Okay. Yes, sir. You can set that
 20 aside.
 21 This next exhibit will be 42. This
 22 one I have conveniently placed a flag and
 23 highlights for you.
 24 (Money Deposition Exhibit No. 42
 25 was marked for identification.)

1 MR. INABINET: Something doesn't
 2 look right about it, Chris. That's why I'm
 3 looking at it.
 4 MR. PANATIER: Sure. If the pages
 5 are mixed up or something, let me know.
 6 MR. INABINET: Yeah. Something just
 7 doesn't look right about it.
 8 MR. PANATIER: What is it? We can
 9 fix it.
 10 MR. INABINET: The pages don't look
 11 right. It looks incomplete or something,
 12 but I'd have to look at the -- in my files
 13 to see.
 14 MR. PANATIER: The only thing that
 15 matters is the one page.
 16 MR. INABINET: Right.
 17 BY MR. PANATIER:
 18 Q. Sir, if you'll just turn to the
 19 flagged page. Some of the introductory pages
 20 may be out of order, but I just want to ask you
 21 about the flagged page.
 22 It is true that Foseco was also
 23 cited for OSHA violations at the Cleveland
 24 plant, right?
 25 A. Correct.

Page 302 1 Q. Okay. And that was in -- on 2 December 6th, 1973? 3 A. It's 6 or 8. I think it's a 6, yes. 4 Q. And what was the citation for? 5 A. Failed to provide engineering 6 controls to prevent atmospheric contamination 7 in excess of 5 asbestos fibers longer than 3 8 micrometers per cubic centimeter for an 8-hour 9 time weight -- weighted average and to prevent 10 the employees from being exposed to an excess 11 of 10 asbestos fibers longer than 5 12 micrometers. 13 Q. You, you understand -- Foseco 14 understands that there was both an 8-hour 15 time-weighted average permissible exposure 16 limit of 5 fibers per -- on cubic centimeter 17 and a short-term excursion limit or ceiling 18 level of 10 fibers per cubic centimeter, 19 correct? 20 A. Correct. 21 Q. All right. And I know why it looked 22 weird because there were two citations that 23 day. That's the second one. Okay. 24 MR. PANATIER: So we'll just make 25 that part of Exhibit 42.	Page 304 1 very good job of protecting its own employees 2 from asbestos dust? 3 MR. KADISH: Objection; form. 4 THE WITNESS: They, they were doing 5 what they could to protect them, and the 6 documents we've seen here are, are just a 7 selection of, of documents which show where 8 we were in excess. 9 And with regard to this one, for 10 example, it says failed to provide annual 11 comprehensive medical. We, we did. But I 12 don't think -- I think what they were 13 concerned about there is although we were 14 doing medicals, it wasn't a full pulmonary 15 medical. And with regard to the 16 respirators, we had a respirator program, 17 but it wasn't documented to their 18 satisfaction. 19 BY MR. PANATIER: 20 Q. And the requirements under OSHA were 21 that it had to be documented, right? 22 A. Not that I know of. 23 Q. Okay. You got violations of OSHA 24 for it, right? 25 A. It was saying it wasn't documented
Page 303 1 MR. INABINET: And it should be. Do 2 you want to ask him about this, too? 3 MR. PANATIER: Yeah, yeah. 4 BY MR. PANATIER: 5 Q. Sir, there were actually two 6 citations from that inspection. And can you 7 see that there's another -- that's another page 8 from that publication? 9 A. Yes, yes. 10 Q. And what are the citations for 11 there? 12 A. It says, "Failed to provide annual 13 comprehensive medical examinations to each of 14 its employees engaged in occupation exposed to 15 airborne concentration of asbestos fibers and 16 failed to enforce the use of respirators which 17 are applicable and suitable for the purpose 18 intended and to establish and maintain a 19 respiratory protective program." 20 Q. Sir, do you agree that for, for the 21 documents we've looked at, which include the 22 industrial surveys showing excess levels of 23 asbestos every time it was measured, as well as 24 these OSHA violations that we've looked at, 25 would you agree that Foseco was not doing a	Page 305 1 to their satisfaction. But we had a program in 2 place is what I wanted to say. 3 Q. And those were held to be violations 4 of the OSHA Act, correct? 5 A. Correct. 6 Q. Okay. In addition to the other 7 citations for overexposure, for failure to put 8 up warning signs, and failure to label, 9 correct? 10 A. Correct. 11 Q. Right. My question to you stands, 12 which is, based on those violations as well as 13 the other measurements where people were 20 and 14 30 times above the PEL for asbestos exposure, 15 do you agree that Foseco was not doing a very 16 good job of protecting those employees who were 17 working with asbestos in its own facilities? 18 MR. KADISH: Objection to form. 19 Argumentative. 20 THE WITNESS: It was, it was making 21 whatever effort they could do to, to make 22 the plant as safe as they could. 23 BY MR. PANATIER: 24 Q. And as safe as they could is 20 and 25 30 times above the PEL?

Page 306 1 MR. KADISH: Objection; 2 argumentative. 3 THE WITNESS: When they were 4 measured, that was the thing. But all I'm 5 telling you is that there was a 6 conscientious effort to try to improve 7 safety conditions all throughout the, the 8 manufacturing. 9 BY MR. PANATIER: 10 Q. You agree, don't you, sir, that 11 there can -- there are different quality levels 12 of effort? There are some people who put forth 13 a little effort and some people who put forth a 14 lot of effort. Do you agree with that? 15 A. Yes. 16 MR. KADISH: Objection; form. 17 BY MR. PANATIER: 18 Q. And do you agree that the results 19 that we have seen, all of the overexposures, 20 the OSHA citations, say that whatever effort 21 Foseco was putting forth, it was not enough to 22 protect its workers who were working with 23 asbestos. 24 A. In those areas, correct. 25 MR. KADISH: Objection; form.	Page 308 1 there. 2 "I've contacted Bill Vandemark 3 through his secretary and ask that he give this 4 problem his immediate attention. I would 5 appreciate your assistance in ensuring that we 6 do comply with your memo." 7 And then someone has written a 8 handwritten note. Do you see that? 9 A. Yes. 10 Q. Who is that? 11 A. It's Dr. Phoenix. 12 Q. Okay. This is Dr. Phoenix. He 13 says, "No asbestos product is to be 14 manufactured in our plants after July 1st." 15 Right? 16 A. Correct. 17 Q. He adds, though, "Asbestos may be 18 added by Johnston employees" -- or "Johnstown 19 employees if they require it." 20 A. Correct. 21 Q. Right? He's talking about one of 22 Foseco's customers? 23 A. Correct. 24 Q. And he's saying if they want to add 25 asbestos, they can do it.
Page 307 1 BY MR. PANATIER: 2 Q. Okay. Sir, this will be Exhibit 8 3 billion. 4 MR. INABINET: 43. 5 MR. PANATIER: 43. Close enough. 6 (Money Deposition Exhibit No. 43 7 was marked for identification.) 8 BY MR. PANATIER: 9 Q. All right. Sir, this is a memo from 10 June 25th, 1976; am I right? 11 A. Correct. 12 Q. It's from T. Jackering or 13 Jeckerling? 14 A. Jeckerling. 15 Q. Who is that? 16 A. He was a person -- I can't remember 17 his position. 18 Q. Okay. "Subject, Use of Asbestos." 19 He says, "Per Frank Bilton's report, we are 20 still using 30,000 pounds of asbestos per 21 month." This is as of June '76. "Our 22 commitment to Bill Dean was no asbestos usage 23 by July 1st, 76. At this stage we can hardly 24 afford to gamble further. We are" -- let's 25 see. Gamble further. Okay. I'm going to stop	Page 309 1 A. Yeah, what -- this was the Premix 2 ship to Johnstown. And Johnstown were not 3 happy with the asbestos-free Premix that we 4 were supplying them. And they were insisting 5 that we supply asbestos-containing Premix. 6 And what Phoenix said was we're not. 7 And if they want asbestos in that Premix, they 8 can add it themselves. 9 Q. Going back to hot tops for a second, 10 Foseco understands that all of the gentlemen 11 who would work on platforms where they would 12 put in hot tops into molds, not all of those 13 guys would be unpacking the hot tops as they 14 came in. Someone would unpack them and bring 15 them out so those guys could use them, right? 16 A. Not really. They were really there 17 next to where they were, were used. 18 Q. Do you know at Armco Butler whether 19 or not the shrink-wrap was taken off once they 20 were delivered to the hot top area or whether 21 or not they just brought a series of pallets 22 out all shrink-wrapped and they just waited? 23 Do you know? 24 A. I don't know, no. 25 Q. Okay. The bottom line is at no time

Page 310 1 did Foseco provide any type of asbestos 2 caution, warning, instructions, or anything 3 like that on the actual boards that were sold 4 to be hot tops. 5 MR. KADISH: Objection; asked and 6 answered. 7 THE WITNESS: No. 8 BY MR. PANATIER: 9 Q. Okay. Next will be 44. 10 A. Are you done with this one? 11 MR. PANATIER: Yes, sir. 12 (Deposition Exhibit No. 44 13 was marked for identification.) 14 BY MR. PANATIER: 15 Q. Have you seen that before, sir? 16 A. Yes, I have, yeah. 17 Q. Okay. This is a Foseco memo, right? 18 A. Yes. 19 Q. It's from W.J. Vandemark. Who's 20 that? 21 A. He was another one of the steel mill 22 people. 23 Q. Okay. To Dr. Phoenix. And Dr. 24 Phoenix is the one who wrote on the previous 25 memo, no asbestos to be used after July 1st,	Page 312 1 products within the steel mill. And what 2 happened was that I was satisfied after talking 3 to the steel -- all the steel salesmen that on 4 July 11th, 1976, that there was no 5 asbestos-containing products within any of the 6 steel mills. 7 So that's the background to this. 8 Now, why it's worded this way, I have no idea. 9 Q. Because he says you just authorized 10 the use of asbestos through July 12th, which 11 was ten days hence, correct? 12 A. Yes, and that's, that's not, that's 13 not true. It's not true. I had no authority 14 to do that. 15 Q. Okay. But he says -- I mean, he 16 says you authorized it. 17 A. Yeah, and I didn't. 18 MR. INABINET: Objection; asked and 19 answered. 20 BY MR. PANATIER: 21 Q. Okay. And he said that -- he goes 22 on further to say that Dr. Phoenix concurs with 23 your authorization of the use of asbestos 24 through July 12th, right? 25 A. Yeah, and that's, that's not true.
Page 311 1 right? 2 A. Correct. 3 Q. Mr. Vandemark writes here, "I now 4 understand that Mr. Money has authorized use of 5 asbestos at Mt. Braddock through July 12th and 6 this has met with your concurrence. Asbestos 7 will not be used after this date at all costs, 8 including loss of business." 9 So first I want to ask, did 10 Mr. Vandemark come to you and say, "Dr. Phoenix 11 said we can't do it after July 1st. Could you, 12 as someone higher up in the company, give us an 13 extension"? Is that kind of what happened? 14 A. No. I, I, I can't remember this 15 memo. And I know I didn't have authority to 16 say they could use asbestos or not. The story 17 is that we were going asbestos-free July 1 and 18 that I had a concern that did we have any 19 asbestos-containing products in any steel mill 20 locations or any of the warehouses which we 21 would have next to those locations. 22 And so what I insisted on is that 23 for all the steel men -- steel salesmen to go 24 around every plant, every warehouse, to make 25 sure that there were no asbestos-containing	Page 313 1 Q. It's not true that Dr. Phoenix 2 concurred with what he thought you did? 3 A. Correct. What Phoenix said was 4 we're not shipping, we're not sending any 5 products out after July 1. Now, where the 6 misunderstanding came in, I'm not sure. 7 Q. Okay. And then lastly it says, 8 "Asbestos will not be used after this date at 9 all costs including loss of business." 10 A. And that's correct. There was one 11 or two recipes that we could not change and so 12 we stopped selling those products. 13 Q. Was this the first time where Foseco 14 simply stopped selling a product even though it 15 meant loss of business? 16 MR. INABINET: Objection. 17 THE WITNESS: I'm, I'm not sure how 18 to answer that. I don't know. 19 BY MR. PANATIER: 20 Q. Okay. Is this -- as you sit here, 21 is this the only time you're aware of? 22 MR. INABINET: Objection; form. 23 THE WITNESS: Correct. 24 BY MR. PANATIER: 25 Q. Okay. Do you agree that in order to

Page 314 1 protect workers from the risks that Foseco 2 acknowledged in the end use of its hot tops, 3 at, at the very least it should have 4 entertained ending some of those product lines 5 even if it meant loss of business? 6 MR. KADISH: Objection to form. 7 THE WITNESS: I, I don't know. 8 BY MR. PANATIER: 9 Q. Don't you think that would be a 10 reasonable thing? 11 MR. KADISH: Objection; form. 12 THE WITNESS: Not when we believed 13 that there was no risk to the, to the steel 14 mill employees. 15 BY MR. PANATIER: 16 Q. Well, we can go back to our 1965 and 17 '67 memos where they acknowledge -- where 18 Foseco, you, acknowledge that there is a risk 19 to the end users. 20 A. Potential risk. 21 MR. INABINET: Objection; form. 22 BY MR. PANATIER: 23 Q. Okay. And my point is at no time 24 did Foseco even entertain simply ending a 25 product line that had asbestos in it even	Page 316 1 BY MR. PANATIER: 2 Q. Sir, this is a memo -- is it from 3 Bilton to Jeckerling? 4 A. Yes. 5 Q. So it's dated September 14th, 1976, 6 from Mr. Bilton. And he says, "Please see the 7 enclosed letter from Brown Insulating Systems, 8 Inc., regarding our remaining inventory of 9 amosite asbestos which we sold to them." 10 So Foseco stopped making the hot 11 tops in early July of 1976, correct? 12 A. Correct. 13 Q. By the way, for all of the hot tops 14 that were already made in July of 1976, they 15 sold -- they did sell the inventory, correct? 16 A. No. 17 Q. Okay. There was an inventory of hot 18 tops that was unsold? 19 A. Correct. 20 Q. All right. Now, two months later 21 they still had a surplus of the raw amosite 22 asbestos, correct? 23 A. Correct. 24 Q. They did sell that to another 25 company, right?
Page 315 1 though it may have meant loss of business in 2 order to prevent risk of disease in the end 3 users, correct? 4 MR. KADISH: Objection; form; asked 5 and answered. 6 THE WITNESS: Yeah, I've already 7 answered that, yes. 8 BY MR. PANATIER: 9 Q. And the answer's yes, correct? 10 A. Correct. 11 Q. Well, the answer is my statement is 12 correct? 13 A. Correct. 14 MR. KADISH: Objection. 15 MR. PANATIER: I think I have one 16 more document. 17 THE WITNESS: Are you finished with 18 this one? 19 MR. PANATIER: Yes. 20 MR. INABINET: It's 45. 21 MR. PANATIER: This will be Exhibit 22 45. 23 (Deposition Exhibit No. 45 24 was marked for identification.) 25	Page 317 1 A. Correct. 2 Q. That was Brown Insulating Systems? 3 A. Correct. 4 Q. What did Brown Insulating Systems 5 make? 6 A. They made -- I believe it was 7 foundry products. 8 Q. Foundry products. 9 And it says in the next sentence, 10 "At the time we sold this material to Brown, we 11 had no other home for it. Brown paid us 12 essentially the price we paid for the material, 13 and we would probably have gotten only a 14 fraction of that if we had sold it elsewhere." 15 Right? 16 A. Correct. 17 Q. Ultimately, can you tell, can you 18 tell the jury why Foseco went asbestos-free? 19 A. It went asbestos-free because of the 20 potential hazards using asbestos. 21 Q. It understood that there were 22 potential risks to people in the plant and in 23 the end use, correct? 24 MR. KADISH: Objection; asked and 25 answered.

Page 318 1 THE WITNESS: In the plant because 2 it was -- we brought in raw, raw asbestos 3 material. But it was not raw asbestos 4 material in the steel mill operation. 5 BY MR. PANATIER: 6 Q. I understand. But we talked about 7 the fact that there was a recognized risk to 8 the end users earlier. 9 A. Correct. 10 Q. Okay. Now, you stopped using 11 asbestos because of the health hazard. But 12 within two months of stopping because of the 13 health hazard, in order to, I guess, alleviate 14 a little bit of the loss of having some 15 asbestos laying around, you still sold it to 16 another company that was making end use 17 products for people, correct? 18 A. Correct. 19 MR. KADISH: Objection; form. 20 BY MR. PANATIER: 21 Q. You didn't have to sell that amosite 22 to that other company that was making end use 23 products for people, correct? 24 A. Correct. 25 Q. Sir, do you agree that it's	Page 320 1 pounds. 2 Q. 30,000 pounds. That's about -- what 3 is that? 15 tons? Is that correct? 4 A. Yes, yes. 5 Q. Okay. 15 tons. 6 Was it still -- the last time we saw 7 a price, it was \$210 per ton, right? 8 A. Okay. 9 Q. It was probably still in that range 10 around now, right? 11 MR. INABINET: Objection. 12 THE WITNESS: I don't know. 13 BY MR. PANATIER: 14 Q. It certainly wasn't more than 500 a 15 ton, was it? 16 MR. KADISH: Objection. 17 THE WITNESS: I don't know. 18 BY MR. PANATIER: 19 Q. Was it a thousand a ton? 20 MR. KADISH: Objection. 21 THE WITNESS: I have no idea. 22 BY MR. PANATIER: 23 Q. Let's say this. The last price we 24 saw was 210 per ton, \$210. Okay? Assuming 25 it's still roughly \$200 a ton, this is 15 tons,
Page 319 1 inconsistent to say on the one hand we stopped 2 putting asbestos in our product because we were 3 concerned about the health hazards pertinent to 4 it -- appurtenant to it, but because we had 5 excess amosite asbestos lying around, we sold 6 it to another company that was going to put it 7 in products and sell it to people? 8 MR. KADISH: Objection; form. 9 BY MR. PANATIER: 10 Q. Do you agree that that's 11 inconsistent? 12 A. No, it's -- it's -- we had surplus 13 asbestos. We probably talked to North American 14 and said, look, we've got this asbestos; we'd 15 like to ship it back. And what -- what 16 probably happened, he gave a list of, of 17 companies that's still buying amosite asbestos. 18 And we obviously contacted one, the one that's 19 shown here is brown, and they said, yeah, we'll 20 take, we'll take the asbestos. 21 Q. Right. You could have disposed of 22 it, right? 23 A. Correct. 24 Q. Do you know how much there was? 25 A. I believe approximately about 30,000	Page 321 1 that's \$3,000. 2 A. Okay. 3 Q. Is that right? 4 A. Whatever you -- 5 Q. \$3,000. If it's \$1,000 a ton, it's 6 \$15,000, right? 7 A. Okay. 8 Q. So for between 3,000 and \$15,000, 9 assuming that the price was between 200 and 10 \$1,000 a ton, Foseco decided that it would sell 11 its excess asbestos for that price, somewhere 12 in that range, to another company who was going 13 to put that asbestos into end use products and 14 sell it to workers, correct? 15 MR. KADISH: Objection; form. 16 THE WITNESS: Well, we're selling it 17 to a company that was already using 18 asbestos and we were selling them our 19 leftover inventory. He wasn't -- we 20 weren't selling them a product which they 21 were not using. 22 BY MR. PANATIER: 23 Q. The bottom line is you sold off 24 30,000 pounds of asbestos for not very much 25 money, right?

Page 322 1 MR. INABINET: Objection. 2 MR. KADISH: Objection; asked and 3 answered. 4 THE WITNESS: We've already talked 5 about the numbers. 6 BY MR. PANATIER: 7 Q. It's not that much money. 8 MR. KADISH: Objection. 9 THE WITNESS: It's all relative. 10 BY MR. PANATIER: 11 Q. Well, how relative was it to 12 Foseco's total revenue that year? 13 MR. INABINET: Objection. 14 MR. KADISH: Objection. 15 THE WITNESS: Well, the bottom line 16 is we had surplus asbestos. We could have 17 disposed of it or we could have sold it on. 18 BY MR. PANATIER: 19 Q. The idea of disposing of it never 20 really even occurred to Foseco; did it? 21 MR. KADISH: Objection. 22 THE WITNESS: If, if no one had 23 wanted the asbestos, we would have disposed 24 of it, but we found someone that wanted it. 25	Page 324 1 MR. INABINET: 45. 2 MR. PANATIER: Okay. This is 3 Exhibit 46. I just want to ask if you've 4 seen this before. I don't care about the 5 letter on the front. The thing on the back 6 is... 7 MR. INABINET: Yeah. 8 (Money Deposition Exhibit No. 46 9 was marked for identification.) 10 BY MR. PANATIER: 11 Q. Sir, have you seen that chart 12 before? 13 A. Yes. 14 Q. Is that an accurate chart, to the 15 best of your knowledge, of the asbestos use 16 during the various years it shows there? 17 MR. INABINET: Objection. 18 THE WITNESS: It is not a Foseco 19 document. 20 BY MR. PANATIER: 21 Q. Okay. What is it? 22 A. It's a document that was prepared by 23 a law firm, and it was based on our purchasing 24 records. 25 Q. Okay. So that was a document that
Page 323 1 BY MR. PANATIER: 2 Q. There was no way Foseco was going to 3 consider just disposing of this couple thousand 4 dollars worth of asbestos if they could sell 5 it. 6 MR. INABINET: Objection. 7 Objection. Chris, we've beat this horse to 8 death. 9 BY MR. PANATIER: 10 Q. Right? 11 A. I don't know what else to say. 12 Q. Well, that's true, isn't it? 13 A. We had asbestos left over. What do 14 we do with it? 15 Q. Okay. Let me, let me make it very 16 clear. The only way -- as you are saying here, 17 the only way that Foseco would entertain just 18 disposing of the asbestos is if they couldn't 19 sell to somebody, right? 20 MR. KADISH: Objection; asked and 21 answered; argumentative. 22 THE WITNESS: Yes, that's, that's 23 what I'm saying. 24 MR. PANATIER: I want you to -- what 25 was that one, 45?	Page 325 1 was created by Foseco's own lawyers? 2 A. Yes. 3 Q. Okay. Are the numbers accurate 4 based on the sales data? 5 MR. INABINET: Objection. 6 THE WITNESS: They, they look 7 reasonable, yes. 8 BY MR. PANATIER: 9 Q. Okay. And you have -- in, in the 10 times that you have done this work in asbestos 11 litigation, you've become familiar with the 12 general sales, correct? 13 A. Correct. 14 MR. INABINET: You said -- sorry. 15 You said sales data. This, this is not 16 sales data. 17 MR. PANATIER: Production data. 18 BY MR. PANATIER: 19 Q. Is that production data? 20 A. This is purchased pounds. 21 Q. That's why it pays to have a copy in 22 front of us. What we are looking at with 23 Exhibit 46 is pounds of raw asbestos purchased, 24 correct? 25 A. Correct.

Page 326 1 Q. Okay. And that -- you said that 2 those -- that compilation of information looked 3 accurate to you. 4 A. I, I have not checked the numbers -- 5 MR. INABINET: Objection. 6 THE WITNESS: -- but I said it looks 7 reasonable, reasonably accurate, yes. 8 BY MR. PANATIER: 9 Q. Okay. Sir, you can set that aside. 10 Just a couple of final things and we will be 11 finished. I've going to give you -- 12 MR. PANATIER: We're on 48? 13 MR. INABINET: 47. 14 MS. REPORTER: Yes, 47. 15 MR. PANATIER: I'm going to mark 47, 16 48, and 49 and I'll just ask you to verify 17 that these are -- to the best of your 18 ability, these are fair and accurate copies 19 of, of Foseco documents. 20 (Money Deposition Exhibit Nos. 47, 21 48, and 49 were marked for 22 identification.) 23 MR. INABINET: Yeah. I mean, Chris, 24 just so we're clear, there are, there are a 25 couple of different documents stapled	Page 328 1 MR. INABINET: You're going to label 2 that one? 3 MR. PANATIER: Yeah. 4 THE WITNESS: Do you want these 5 back? 6 MR. INABINET: No. 7 BY MR. PANATIER: 8 Q. I just want to ask you -- and take a 9 look at 49 there or 47, which I just gave you. 10 MR. PANATIER: This one's going to 11 be 50. 12 (Money Deposition Exhibit No. 50 13 was marked for identification.) 14 THE WITNESS: It's the same 15 document, isn't it? 16 BY MR. PANATIER: 17 Q. I think there were different 18 iterations of it. But it's okay. If they're 19 the same document, they're the same document. 20 A. Do you want me to go through the 21 pages or not? 22 Q. My question is, for the -- for those 23 documents, do those appear to be authentic 24 Foseco either catalogs or advertisements or 25 brochures?
Page 327 1 together. 2 MR. PANATIER: Yeah, some of them 3 look like they go together and some of them 4 don't. Why don't you -- you know what? If 5 you want to separate it where you know it 6 separates. 7 MR. INABINET: I mean, I can't do it 8 off the top of my head. But I know -- I 9 know, like, for example, there's a -- 10 here's another Profax. 11 MR. PANATIER: Here. Let me pull 12 that one. 13 MR. INABINET: Here's 48. Just 14 without seeing mine, I can't tell where -- 15 if it ends in the right place or not; so... 16 MR. PANATIER: That's fine. If we, 17 if we get to a point where at trial or 18 something and you're like that page isn't 19 on there, we'll deal with it. Otherwise, 20 if the substance is correct, that's what 21 I'm asking him to verify that, that the 22 pages he sees are authentic. Okay? 23 MR. INABINET: Right. 24 MR. PANATIER: All right. Here's 25 47.	Page 329 1 A. Correct. 2 MR. INABINET: Objection. Hold on. 3 They're Foseco documents, obviously. I 4 don't know of any authentication issues 5 right now; but... 6 MR. PANATIER: Well, I'm asking the 7 company. 8 MR. INABINET: Yeah, but you're 9 asking him a legal question. 10 MR. PANATIER: Well, the company is 11 theoretically the best person to -- I don't 12 think we're going to have a problem with 13 these, but, but I still am going to ask the 14 company. If at some later time you want to 15 tell the judge the company can't verify 16 them -- 17 MR. INABINET: Do you want to tell 18 him what, what you mean by authentic? 19 MR. PANATIER: Yeah, sure. 20 BY MR. PANATIER: 21 Q. Sir, you have seen -- you have seen 22 catalogs, brochures, and ads for Foseco 23 products in the past, correct? 24 A. I've seen brochures. 25 Q. Okay. Do these appear to be what

Page 330 1 they purport to be? In other words, do they 2 appear to be fair and accurate copies of what 3 they purport to be? 4 For instance, that first one is a 5 Profax system. It says, "Products Produce 6 Better Ingots." It looks like it's a catalog. 7 You tell me if it's something else. 8 A. I'm not sure what technical wording 9 to use. I look at these are product 10 brochures -- 11 Q. Okay. Okay. 12 A. -- to say what Profax is about and 13 et cetera. 14 Q. Does that appear to be a fair and 15 accurate copy of a Foseco brochure for Profax? 16 A. Yes. 17 Q. Okay. Same with the one that's 18 behind it? It may be the exact same one. 19 A. Yes. Yeah. 20 Q. And then you've got one that's 21 behind that. 22 A. Yes. 23 Q. Does that appear to be a fair and 24 accurate copy of a Foseco brochure? 25 A. Yes.	Page 332 1 Q. Okay. How complete are they 2 generally? 3 A. Time frame. It's, it's -- we've got 4 good records. There's one year we've got 5 midyear. We've got sales through June of that 6 year. We've got another one where we've got 7 year to date of November, but we don't have the 8 month of December. 9 And in some of the -- in '65 -- I 10 think it is '66, we've got some indication of 11 sales from the sales report and we've got some 12 invoices but no summary sales records. 13 Q. All right. So from -- let's look at 14 '65 to '76. 15 A. Okay. 16 Q. Are there any years where Foseco 17 sales records are incomplete? 18 A. Yes. 19 Q. Okay. Which years? 20 A. The, the, the two I mentioned. 21 We've got sales for half a year in one of the 22 years, '70 and whatever it is, and there's one 23 year that we're missing the month of December. 24 We've only got year to date in November. 25 Q. Kind of a follow-up to that is, are
Page 331 1 Q. And then the last one, fair and 2 accurate copy of a Foseco brochure? 3 A. Yes. 4 Q. All right. And then lastly, this is 5 Exhibit 51. 6 (Money Deposition Exhibit No. 51 7 was marked for identification.) 8 BY MR. PANATIER: 9 Q. I'll ask you to just page through 10 that document. 11 MR. INABINET: Can we, can we just 12 first establish that those are the sales 13 that were produced by Kradel just so we 14 know what we're talking about? 15 BY MR. PANATIER: 16 Q. Yeah, so we're looking at -- those 17 are sales documents produced by Foseco in the 18 Kradel case, K-r-a-d-e-l. 19 A. I don't, I don't know. 20 Q. Have you seen them before? 21 A. I've seen these reports, but I don't 22 know what case you're referring to. 23 Q. Do you know how complete Foseco's 24 sales records? 25 A. Yes.	Page 333 1 you -- have you gone through to look for sales 2 records pertaining to Armco Butler? 3 A. Yes. 4 Q. Okay. And what did you find? 5 A. I -- well, I went through all the 6 records to, to find sales to every company. 7 And these are the result of those searches. 8 Q. Now, those, I believe, are just for 9 Armco Butler, correct? 10 A. Right. 11 Q. And when you say to every company, 12 what do you mean? 13 A. When, when we started looking at the 14 sales records and we found out there was gaps 15 missing, I went through every document I could 16 find that referenced sales to try to complete 17 that -- those missing periods of time. 18 Q. Did you ever add up how many total 19 boards were sold to Armco Butler between '65 20 and '76? 21 A. No. 22 Q. Is everything you have there in 23 front of you? 24 A. Is everything to do with Amoco 25 Butler?

Page 334 1 Q. Uh-huh. 2 A. Yes. 3 Q. Okay. There are several categories 4 on there. Some -- it says -- it looks like 5 projected and then actual sales -- 6 A. Yes. 7 Q. -- throughout, right? 8 If we want to know what Foseco 9 actually sold to Armco Butler, we would look at 10 the actual sales and not the projected, 11 correct? 12 A. Correct. 13 MR. INABINET: Hold on one second. 14 Now, just so we're clear, this is only 15 asbestos-containing products? 16 MR. PANATIER: That's right. That's 17 right. We're only concerned with the 18 asbestos products. 19 BY MR. PANATIER: 20 Q. Certainly it's possible, in fact 21 likely, that Foseco sold also nonasbestos 22 products to Armco Butler, right? 23 A. They did, yes. 24 Q. Okay. Have you added those up to 25 give us some idea of how much -- how many of	Page 336 1 Q. Okay. You don't know what 2 proportion of the total amount of hot tops they 3 needed were purchased from Foseco as opposed to 4 Ferro? 5 A. What I -- what I've seen and know is 6 I know on some of those reports, when we were 7 trying to get into the Armco Butler business, 8 it mentions the competitors that already had 9 the business. But it's sketchy, if anything, 10 that shows what the percentage each one had. 11 Q. Okay. 12 A. So I don't know. 13 Q. Certainly they weren't calling you 14 and telling you what their sales numbers were. 15 A. No. 16 Q. Okay. Sir, can -- would you agree 17 that -- you know, we related how Foseco 18 approached safety with its employees and with 19 the products. Do you recall talking about 20 that? 21 A. Yes. 22 Q. I just want to -- I just want to 23 kind of level with you. Do you agree that 24 Foseco could have done a whole lot more to 25 protect its own employees from asbestos
Page 335 1 those were sold? 2 A. No. 3 Q. Was there a salesperson or group 4 responsible for selling to Armco Butler at 5 Foseco? 6 A. There was a salesman responsible for 7 that account, but it changed over the years. 8 Q. Who were those people, to your 9 knowledge? 10 A. Do you want me to go through the 11 reports? Because some of them show it, some 12 don't. 13 Q. If what you're going to answer is 14 based on that report, you don't have to. 15 A. Okay. It is. 16 Q. If your knowledge is based on just 17 that report, we've got the report. That's 18 fine. 19 A. It is. It is. 20 Q. Do you have any way to testify as to 21 the comparison between how much hot -- how much 22 asbestos-containing hot top material was 23 purchased from Foseco by Armco Butler as 24 opposed to Ferro? 25 A. No.	Page 337 1 exposure? 2 MR. KADISH: Objection; asked and 3 answered. 4 THE WITNESS: Yes, you can always do 5 things better. 6 BY MR. PANATIER: 7 Q. And I'm, I'm talking about at the 8 time. I'm not talking about in retrospect. 9 A. Yes. 10 Q. Okay. And at the time do you agree 11 that Foseco could have done a whole lot more to 12 pass along or to protect its end users of its 13 asbestos-containing products? 14 MR. INABINET: Objection. 15 MR. KADISH: Objection; form. Also, 16 asked and answered. 17 THE WITNESS: We've already done 18 through this. We took whatever knowledge 19 was available at the time and we made 20 responsible decisions on what we should do 21 to protect our workers and what was the 22 potential risk for any steel mill workers. 23 I don't know what else to say on that. 24 BY MR. PANATIER: 25 Q. My question wasn't that, though. My

Page 338 1 question was, do you agree that Foseco could 2 have done a lot more to protect the end users 3 of its products? 4 MR. KADISH: Objection; 5 argumentative. 6 MR. INABINET: I mean, we're looking 7 40 years back, Chris. I don't think it's a 8 fair question. I don't know how he's 9 supposed to -- 10 MR. PANATIER: That's a question 11 asked in every asbestos case. You know 12 that. So... 13 MR. KADISH: It's argumentative. 14 MR. INABINET: And I'd object then, 15 too. 16 MR. PANATIER: Okay. Then you're 17 objecting. You've made your objection. 18 BY MR. PANATIER: 19 Q. Sir, do you agree with that? 20 A. I don't know how to answer. I've, 21 I've answered that question dozens of times 22 today, and I don't know what else -- what more 23 to say. 24 Q. We'll ask, we'll ask somebody else 25 to make that judgment. But I just want you to	Page 340 1 You testified earlier today that at 2 some point Foseco obtained a board that they 3 believed was nonasbestos from Ferro, correct? 4 A. They got a, a Ferro board from one 5 of the steel mills, correct. 6 Q. Can you give me a time frame of 7 that? 8 A. I'm not sure. It -- it -- I can 9 give you range. It was probably somewhere 10 between '73 and probably '74, maybe even '75. 11 But that's the approximate time frame. 12 Q. Do you remember what steel mill? 13 A. No, I don't. 14 Q. Do you know who got the board at 15 Foseco? 16 A. No. 17 Q. Do you know who did the testing? 18 A. It's -- 19 Q. Or the analysis of the board? 20 A. Yeah, I'm not sure who would have 21 done it within Foseco. It was done with -- by 22 Foseco. 23 Q. So Foseco employees would have 24 analyzed that? 25 A. Correct.
Page 339 1 verify a fact, which is -- 2 MR. KADISH: Objection to form. 3 BY MR. PANATIER: 4 Q. -- which is Foseco knew a whole lot 5 more about the hazards of asbestos than it was 6 telling its end users, correct? 7 MR. INABINET: Objection; form. 8 THE WITNESS: Potential hazards, 9 correct. 10 BY MR. PANATIER: 11 Q. Right? Potential means you might 12 get hurt, you might not, right? 13 A. Correct. 14 MR. PANATIER: Okay. Let's take a 15 quick break. I think I'm done. 16 THE VIDEOGRAPHER: Going off the 17 video record at 4:28 p.m. 18 (Whereupon, a recess was taken.) 19 THE VIDEOGRAPHER: We're back on the 20 video record at 4:33 p.m. 21 EXAMINATION 22 BY MS. MULLANEY: 23 Q. Good afternoon, sir. My name is 24 Theresa Mullaney, and I represent Ferro. I 25 have a couple questions for you.	Page 341 1 Q. Is there any type of document that 2 reflects this analysis? 3 A. I don't know whether I've seen any 4 or not. There is one, is there? I wasn't 5 sure. 6 Q. Do you know why Foseco believed that 7 this was an asbestos-free board versus an 8 asbestos-containing board that Ferro was -- 9 that they were given? 10 A. My recollection is that the person 11 who got the board got it from, from the steel 12 mill where it was supposed to be an 13 asbestos-free board. They were looking at 14 saying, look, Ferro got asbestos-free; we need 15 asbestos-free from you. So we got a sample of 16 the board to see what they were using for 17 asbestos-free. And when we did the check, it 18 contained some asbestos. That's the most I 19 know. 20 Q. Do you know the percentages of 21 asbestos that was in there? 22 A. I, I do not remember, but it could 23 be on that document. 24 Q. Do you know if there were any 25 markings on the board indicating that it was

Page 342		Page 344	
1	asbestos-free, or is your knowledge just	1	CHANGES AND SIGNATURE
2	basically that somebody at the steel mill told	2	WITNESS NAME: ANTHONY MONEY
3	the salesman of Foseco that it was	3	DATE: July 23, 2013
4	asbestos-free?	4	PAGE LINE CHANGE REASON
5	A. That's my understanding.	5	
6	Q. And, sir, you also just testified	6	
7	that when you were trying to get into the Armco	7	
8	Butler plant that they mentioned the	8	
9	competitors -- competitors that were at that	9	
10	site. Is that also on that sales summary, the	10	
11	competitors?	11	
12	A. The, the competitors on the sales	12	
13	summary, yes. And if -- if you look at the	13	
14	very first one, it shows that -- who the	14	
15	competitors were. I think it was -- that one's	15	
16	1967.	16	
17	MS. MULLANEY: Thank you.	17	
18	MR. INABINET: Anybody else?	18	
19	MR. KADISH: Let's go off the record	19	
20	then.	20	
21	THE VIDEOGRAPHER: Counsel, are we	21	
22	concluded?	22	
23	MR. INABINET: You'll read?	23	
24	MR. KADISH: Read and sign?	24	
25	THE WITNESS: Sorry?	25	

Page 343		Page 345	
1	MR. INABINET: You will read and	1	I, ANTHONY MONEY, HAVE READ THE FOREGOING
2	sign the deposition?	2	DEPOSITION AND HEREBY AFFIX MY SIGNATURE THAT SAME
3	THE WITNESS: Oh, yes.	3	IS TRUE AND CORRECT, EXCEPT AS NOTED ABOVE.
4	THE VIDEOGRAPHER: This concludes	4	
5	the videotaped deposition of Anthony Money,	5	
6	consisting of six videotapes. The time is	6	
7	now 4:37 p.m. We're now off the video	7	ANTHONY MONEY
8	record.	8	THE STATE OF _____
9	(Whereupon, the deposition of	9	COUNTY OF _____
10	ANTHONY MONEY was concluded at	10	BEFORE ME, _____
11	4:37 p.m.)	11	ON THIS DAY PERSONALLY APPEARED ANTHONY MONEY,
12		12	KNOWN TO ME (OR PROVED TO ME UNDER OATH OR THROUGH
13		13	_____) (DESCRIPTION OF
14		14	IDENTITY CARD OR OTHER DOCUMENT) TO BE THE PERSON
15		15	WHOSE NAME IS SUBSCRIBED TO THE FOREGOING
16		16	INSTRUMENT AND ACKNOWLEDGED TO ME THAT THEY
17		17	EXECUTED THE SAME FOR THE PURPOSES AND
18		18	CONSIDERATION THEREIN EXPRESSED.
19		19	GIVEN UNDER MY HAND AND SEAL OF OFFICE
20		20	THIS _____ DAY OF _____
21		21	_____
22		22	
23		23	
24		24	NOTARY PUBLIC IN AND FOR
25		25	THE STATE OF _____
			COMMISSION EXPIRES: _____

ANTHONY MONEY

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1 REPORTER'S CERTIFICATION
2 DEPOSITION OF ANTHONY MONEY
3 July 23, 2013

4 I, Janice M. Koczek, Certified Shorthand
5 Reporter in and for the State of Illinois, hereby
6 certify to the following:

7 That the witness, ANTHONY MONEY, was duly
8 sworn by the officer and that the transcript of
9 the oral deposition is a true record of the
10 testimony given by the witness;

11 That the deposition transcript was
12 submitted to the witness or to the attorney for
13 the witness for examination;

14 I further certify that I am neither
15 counsel for, related to, nor employed by any of
16 the parties or attorneys in the action in which
17 this proceeding was taken, and further that I am
18 not financially or otherwise interested in the
19 outcome of the action.

20 Certified to by me this 1st of August, 2013.

21

22 JANICE M. KOCEK, CSR NO. 084-002871

Expiration Date: May 31, 2015

23 Firm Registration No. 69

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