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B U L L E T I N

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July 2, 1985

ASBESTOS CLAIMS FACILITY

On May 1, 1985 the Institute advised on the establishment of an "Asbestos Claims Facility" by a group of asbestos producers and insurance companies.

More details on this claims facility were described recently in the WALL STREET JOURNAL. A copy of the article from the Journal is enclosed.

An item of interest is that the article states that claims facilities will be set up early next year in Boston and San Francisco. Earlier it had been projected that the facilities would be open this year. The May 1, 1985 Bulletin and press release more fully described establishment of the facility.

The foregoing is for your information.

E. W. Drislane
Executive Director

Distribution:
Delegates and Alternates

WALL STREET JOURNAL, JUNE 21, 1985

Fifty Asbestos Makers, Insurance Firms Reach Agreement on Claims Facilities

By JONATHAN DAHL
Staff Reporter of THE WALL STREET JOURNAL

Fifty asbestos producers and insurance companies reached a definitive agreement to open claims facilities to eventually pay billions of dollars to asbestos victims.

The agreement, which first was announced tentatively by a smaller number of companies last year, marks a major step toward resolving some 30,000 asbestos-related lawsuits. In addition, it partially settles a multibillion lawsuit between four producers and about 75 insurers that recently went to trial in San Francisco.

But the agreement is far from a final resolution of all personal-injury asbestos matters. Several major former asbestos producers and insurers, including Manville Corp. and Travelers Insurance Co., haven't joined. In addition, attorneys for victims said they may challenge it.

"This doesn't make the problem go away, but it provides a basis for resolving it," said Scott Gilbert, an attorney in Washington, D.C., who helped negotiate the agreement.

Under the agreement, the companies will set up claims-handling facilities early next year in Boston and San Francisco. Those facilities will seek to settle lawsuits brought by individuals claiming they contracted various respiratory diseases from exposure to asbestos products. Asbestos is a mineral once widely used for building and pipe insulation.

The claims offices will handle disputes similar to the way insurance claims are handled, attorneys said. Although the offices won't be open until next year, some asbestos claims could begin to be filed as early as next fall, attorneys added.

The facilities' goal is to avoid the costly and time-consuming litigation that has plagued asbestos cases for years. About $1 billion has been spent on such cases in the past 10 years, but only a third of that has gone to victims while the rest has gone to attorneys, according to some recent studies. But the facilities won't block anyone from proceeding with or initiating litigation if they are unhappy with the facilities' offer.

"That's what provides a check on the facility," said Mr. Gilbert. "If it doesn't offer a fair settlement, people will go right back to the courts."

The facilities will be funded by the insurance companies to settle their policies with the producers. The amount of coverage that will be available runs into the billions of dollars over the next several years. The insurers also agreed to pay $15 million a year to run the facilities.

The agreement ends a bitter dispute between the producers and the insurers over the liability of asbestos claims. Asbestos related diseases often don't show up for many years after exposure, so many insurers couldn't agree which company was liable for which producer. Several lawsuits have been filed over the matter, and some were consolidated into the case in San Francisco.

To resolve the issue, the insurers compromised essentially by agreeing to divide their payments based on the length of their policies' coverage.

Several major insurers and former asbestos producers are included in the agreement, including Aetna Life & Casualty Co., Lloyds of London, Fireman's Fund Inc., Pittsburgh-Corning Corp. and U.S. Gypsum Co. But Manville, once the nation's largest asbestos-products maker, hasn't joined the agreement because it is still facing legal complications from its bankruptcy-court proceedings. It has been protected from creditor lawsuits under Chapter 11 of the federal Bankrutpcy Code since August 1982.

In addition, several major insurers that didn't agree with the compromise for resolving asbestos claims aren't included. Some have said, however, that they will consider joining the agreement later. "We're not opposed to the concept," said George McKeon, counsel for Travelers Insurance. "We just don't agree on how they're interpreting the policies."

Some attorneys for asbestos victims said the agreement might hurt their clients. Currently, asbestos claimants settle cases separately with as many as 20 producers, often for amounts higher than they would receive in joint settlements. But the agreement calls for the companies only to settle court cases jointly.

"This could be challenged on antitrust grounds," said Fred Baron, a Dallas attorney for asbestos victims. But he also called the agreement a "step in the right direction."

FMSI 02548