

FILE NAME: Cape Asbestos (CAPE)

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Meyer 5/18-19/82 w/ Exhibits

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

R. DEAN MUSSER and CIVIL ACTION
HELEN L. MUSSER, his wife

vs.

JOHNS-MANVILLE CORPORATION,
ET AL. No. 81-3929

R. RAY ZUG and BETTY R. ZUG CIVIL ACTION

vs.

JOHNS-MANVILLE CORPORATION,
ET AL. No. 81-1269

JACOB GEESEY and JANE GEESEY CIVIL ACTION

vs.

JOHNS-MANVILLE CORPORATION,
ET AL. No. 81-1274

KATHERINE DITZLER CIVIL ACTION

vs.

JOHNS-MANVILLE CORPORATION,
ET AL. No. 81-1446

WARREN LOSER and BETTY LOSER CIVIL ACTION

vs.

JOHNS-MANVILLE CORPORATION,
ET AL. No. 81-1266

WARREN WOLFE and JUDITH WOLFE CIVIL ACTION

vs.

JOHNS-MANVILLE CORPORATION,
ET AL. No. 81-1272

1 WILLIAM CROCKETT and
2 SHIRLEY CROCKETT

CIVIL ACTION

3 vs.

4 JOHNS-MANVILLE CORPORATION,
5 ET AL.

No. 81-1268

6 GEORGE DIEM and SHIRLEY DIEM

CIVIL ACTION

7 vs.

8 JOHNS-MANVILLE CORPORATION,
9 ET AL.

No. 81-1271

10 PAUL J. BOYER and
11 EVELYN M. BOYER

CIVIL ACTION

12 vs.

13 JOHNS-MANVILLE CORPORATION,
14 ET AL.

No. 81-1267

15 CLAIR A. WALKER, JR. and
16 BETTY A. WALKER, his wife

CIVIL ACTION

17 vs.

18 JOHNS-MANVILLE CORPORATION,
19 ET AL.

No. 81-4886

20 EVELYN D. HALDEMAN,
21 Executrix of the Estate of
22 Max K. Haldeman, deceased

CIVIL ACTION

23 vs.

24 JOHNS-MANVILLE CORPORATION,
ET AL.

No. 81-4882

1 SALVATORE BONFIGLIO and
2 SUSAN BONFIGLIO, h/w

CIVIL ACTION

3 vs.

4 BELL ASBESTOS MINES, LTD.,
5 ET AL.

No. 81-2612

6
7 The deposition of MAX E. MEYER, called for
8 examination pursuant to notice and the Rules of
9 Civil Procedure for the United States District Courts
10 pertaining to the taking of depositions, taken before
11 Robin M. Tokarz and Claudia Ream, notaries public
12 within and for the State of Illinois and County of
13 Cook, at 8300 Sears Tower, Chicago, Illinois, on the
14 18th and 19th days of May, 1982, at the hours of
15 10:00 o'clock a.m. and 5:00 o'clock p.m. respectively.

16 PRESENT:

17 PORZIO, BROMBERG & NEWMAN
18 BY: MR. MARC Z. EDELL
19 163 Madison Avenue
20 Morristown, New Jersey 07960

21 on behalf of Lac d'Amiante du
22 Quebec, Ltee.;

23 PEPPER, HAMILTON & SCHEETZ
24 BY: MS. ELLEN M. CAVANAUGH
123 South Broad Street
Philadelphia, Pennsylvania 19109

on behalf of Lac d'Amiante du
Quebec, Ltee.;

1 Q When you say it was a subsidiary are you
2 talking about Cape Industries Overseas, Limited?

3 A Yes.

4 Q And what if any relationship does Cape
5 Asbestos Limited have to Cape Industries?

6 A They are the same corporation. Cape
7 Asbestos Limited changed its name to Cape Industries
8 Limited.

9 Q At what point in time, sir?

10 A I believe in 1975.

11 Q At the time that there was a transfer of
12 ownership of North American Asbestos Corporation?

13 A That's my recollection.

14 Q Now with respect to Don Friction who was the
15 owner of that company?

16 MR. WARREN: I object to that question, instruct
17 the witness not to answer.

18 MR. EDELL: Just for the record, my silence is
19 not an acquiescence of your direction. If some
20 court deems it appropriate to continue the deposition
21 of Mr. Meyer, based upon the erroneous direction you
22 have made, I would obviously seek costs including
23 travel expenses to Chicago.

24 MR. WARREN: My understanding is that we're here

1 pursuant to Judge Becker's order and that I would be
2 willing to listen to an offer of proof on how this is
3 relevant to the dissolution of North American.

4 MR. LEVIN: Is Judge Becker going to listen to the
5 offer of proof, too, or will you decide it?

6 MR. EDELL: I'm not trying the case right now,
7 Counsel. I don't have to make an offer of proof. I
8 think the questions are relevant. I don't have to
9 explain to them why they are. Obviously you think
10 they are not -- not germane. That's your prerogative

11 BY MR. EDELL:

12 Q Sir, did you ever hear of a corporation or
13 an entity called Associated Minerals Corporation?

14 A Yes, I have heard of it.

15 Q In what context?

16 A My recollection is that it's in the context
17 of assigning a trademark to it.

18 Q And what trademark was assigned to it?

19 A Trademark called Noramite.

20 Q Noramite was a trademark for a product
21 manufactured by North American Asbestos Corporation,
22 is that correct?

23 MR. WARREN: Object to the form. You can answer
24 if you know.

1 BY MR. EDELL:

2 Q Don't answer if you don't know. Go ahead,
3 sir, I'm sorry.

4 A Noramite as I understand it was a trademark
5 in connection with the use of asbestos mat and plastic.
6 At one time in the early '60s North American Asbestos
7 did, at least on an experimental basis, try manufacturing
8 the mat and sold it -- tried to sell it to companies
9 that might use it in manufacturing plastics but
10 after a couple years, year and a half, two years or
11 something, the whole thing was abandoned, discontinued

12 MR. EDELL: Will you start marking these?

13 (Exhibits No. 1 through 6
14 marked as requested.)

15 BY MR. EDELL:

16 Q Sir, I'm going to show you documents which
17 have been marked as Meyer Exhibit 1, 2, 3, 4 and 6
18 and will you identify those documents in the order in
19 which they have been marked, sir?

20 A One is the minutes of a regular meeting of
21 directors of North American Asbestos, July 21, 1958.

22 Q Is that an accurate copy of those minutes,
23 sir?

24 A It appears to be. That's my signature on it.

1 Q Okay.

2 A No. 2 appears to be minutes of the special
3 meeting of directors of North American Asbestos
4 Corporation of December 11, 1958.

5 No. 3 appears to be minutes of a special
6 meeting of directors of North American Asbestos
7 Corporation of February 22, 1962.

8 No. 4 appears to be minutes of the annual
9 meeting of directors of North American Asbestos
10 Corporation, April 11, 1962.

11 No. 6 appears to be minutes of a special
12 meeting of directors of North American Asbestos
13 Corporation, December 10, 1962.

14 Q Are all those minutes signed by you, sir?

15 A Yes.

16 Q And do you recognize them as true and
17 accurate copies of the original minutes?

18 A Well, I haven't read them in detail but I
19 have no reason to think they are not.

20 Q If you'd like to satisfy yourself, you
21 can sit there and you can read them. I don't want to
22 waste your time but they were supplied to me by
23 counsel for North American. I'll make that representation
24 for you.

1 A As I say as far as -- without having the
2 originals here to compare them, I believe they are,
3 yes.

4 Q I'm going to show you a document which has
5 been marked as Meyer 5 for identification. It's
6 a number of pages but can you tell us what that is, s
7 or that purports to be?

8 A They purport to be bills from the law offices
9 of Lee and Smith with respect to renewal of the
10 trademark Noramite.

11 Q And can you tell us specifically how that
12 transfer of trademark occurred, sir?

13 A To the best of my recollection some months,
14 nearly a year, after North American Asbestos had been
15 dissolved a trademark lawyer contacted me or somebody
16 and said there's a trademark, Noramite, that was
17 apparently in the name of North American Asbestos
18 Corporation that is expiring or up for renewal and
19 the question is whether it should be renewed. It
20 hadn't been used for years but I contacted Mr. Penna
21 at Cape Industries Overseas Limited in London and
22 asked if they wanted it renewed for any reason and
23 they said yes, decided yes to have it renewed.

24

1 And the question is since North American
2 Asbestos was out of business who should it be
3 renewed to and they said to Associated Minerals
4 Corporation. And my recollection is that that's
5 what was done.

6 Q Now Mr. Penna is Anthony J. Penna?

7 A Well, Tony Penna.

8 Q Tony. And he's an attorney, a solicitor
9 or barrister, over there in England?

10 A Yes.

11 Q And am I correct, sir, that the trademark
12 was first transferred to you and then you transferred
13 it to Associated Minerals Corporation?

14 MR. WARREN: Objection to the form.

15 MR. EDELL: What's wrong with the form of the
16 question?

17 MR. WARREN: It assumes facts without simply
18 asking him how was the transfer done.

19 BY MR. EDELL:

20 Q Okay, you can answer, sir.

21 A I don't recall the details. It could be
22 correct.

23 Q Why don't you take a look at the first page,
24 document D.L. 5 for identification, ask you if that

1 refreshes your recollection?

2 A I read what it says but I don't recall as
3 to how the mechanics were done.

4 Q Was that bill prepared by your office, sir?

5 A By my office? No.

6 Q Let me see that. This bill was prepared by
7 the attorneys Lee and Smith, is that correct?

8 A Yes, I assume so.

9 Q And who if anyone -- strike that.

10 Do you know why they sent the bill to
11 you, sir?

12 A I employed them to do the services.

13 Q I see. And did you review the bill to
14 ascertain whether or not it was correct or incorrect
15 prior to its payment?

16 A I'm sure I looked at it, yes.

17 Q Do you have any reason to believe that the
18 statement contained on the first page of the document,
19 Meyer 5, is incorrect with respect to what occurred?

20 A No, I do not.

21 Q And that statement in part indicates that
22 there was an assignment from North American to you
23 and that there was an assignment from you to AMC,
24 is that correct, sir?