

FILE NAME: Flintkote (FLK)

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DOCUMENT DESCRIPTION: Legal - Deposition of John C. Schmitt with BC Notes

John Schmitt

11/15/01

retired from FlintKote 1985

7. Chem Engr. began at FlintKote 1947 (Chemist)
8. prod. & plant safety engr 1974-1985
27. in 1970-74 they began work on a non-A flooring product
28. he learned of dangers of A in 1974
- 36-37 Asphalt and Vinyl Asbestos ~~Inst~~ Institute 1962-~~74~~ some years
- 37 NSC - 1974 on, company up.
- 42-43 he talked a competitor into dropping a warning label
- 43 FlintKote never sold raw A to other firms
- 43 denies FlintKote had A mines
- 82 FlintKote never used warning labels products
"encapsulated"

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VIRGINIA: IN THE CIRCUIT COURT FOR THE
CITY OF NEWPORT NEWS

VIRGINIA CONSOLIDATED,	:	NO. CL99-2000-00
Plaintiff	:	
vs.	:	
	:	
A.P. GREEN,	:	
Defendant	:	

DEPOSITION OF JOHN C. SCHMITT

Taken at the Four Points Sheraton,
3400 Airport Road, Allentown, Pennsylvania, on
Thursday, November 15, 2001, commencing at 10:40
a.m., before Daniel R. Stout, Certified Court
Reporter, Notary Public.

* * *

A. WILLIAM ROBERTS, JR., & ASSOCIATES

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5 APPEARANCES:6 NESS, MOTLEY, LOADHOLT, RICHARDSON &
7 POOLE8 By: NICHOLAS J. VOGELZANG, ESQUIRE
9 174 East Bay Street, 2nd Floor
10 Charleston, SC 29401
11 843-216-900012 -- For the Plaintiff
13

14 MC CARTER & ENGLISH

15 By: ERIC J. KADISH, ESQUIRE
16 One Commerce Square
17 2005 Market Street, Suite 3600
18 Philadelphia, PA 19103
19 215-557-770020 -- For The Flintkote Company
21 and the Witness
2223 -----
24 The following attorneys identified themselves and
25 were listening to the testimony via conference
phone:Michael Smith, Esquire
National Counsel for The Flintkote CompanyJohn Owen, Esquire
Counsel for The Flintkote CompanySuzanne Bruney, Esquire
Counsel for ACandS, Inc.

* * *

A. WILLIAM ROBERTS, JR., & ASSOCIATES

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JOHN C. SCHMITT, having been duly

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sworn, was examined and testified as follows:

5

BY MR. VOGELZANG:

6

MR. KADISH: Initially I just want to

7

put a statement on the record.

8

My name is Eric Kadish. I'm here

9

representing The Flintkote company, and I'm also

10

representing Mr. John Schmitt, who is being

11

presented as a witness as someone who is

12

knowledgeable with respect to products that

13

Flintkote made, and Mr. Schmitt is a former employee

14

of The Flintkote Company. With that, we can

15

proceed.

16

MR. VOGELZANG: All right, and this

17

is the Discovery deposition of John Schmitt taken

18

pursuant to Notice with other attorneys listening in

19

and participating via conference call, and this is

20

taken pursuant to all applicable Court Rules.

21

BY MR. VOGELZANG:

22

Q. Mr. Schmitt, have you ever been deposed

23

before?

24

A. Yes.

25

Q. Just so it's on the record and as you

1 probably know, please allow me to finish all my
2 questions before responding and I'll allow you the
3 same courtesy of finishing your answers. If you
4 don't understand a question, please let me know and
5 I'll rephrase it. If you answer it, I'll assume
6 that you understood it.

7 If you need to take a break at any
8 time, let me know, and, as always, may sure to give
9 an audible response so that the Court Reporter can
10 it down. Is that clear and sound good to you?

11 A. That is clear, yes.

12 Q. Will you please state your name and
13 address?

14 A. John, middle initial C, Schmitt,
15 S-c-h-m-i-t-t. Address is 206 Treeline,
16 T-r-e-e-l-i-n-e, Drive, Pen Argyl, P-e-n A-r-g-y-l,
17 Pennsylvania, 18072.

18 Q. And what is your date of birth?

19 A. December 27th, 1920.

20 Q. Are you currently retired?

21 A. Yes.

22 Q. And how long have you been retired? What
23 year did you retire?

24 A. Retired in December of 1985.

25 Q. And you retired from The Flintkote

1 Company, is that correct?

2 A. That's correct.

3 Q. Do you know who Christine Hamilton is?

4 A. No, I do not.

5 Q. Christine Hamilton was identified by The
6 Flintkote Company as the person who was the
7 representative of The Flintkote Company. Have you
8 had any communications with that person?

9 A. No.

10 Q. Are you being paid for your testimony
11 today?

12 A. Yes.

13 Q. And what is your rate?

14 A. Rate is one hundred and fifty dollars per
15 hour.

16 Q. And does that include any meeting time
17 with the attorney?

18 A. Yes, it would.

19 Q. Did you do anything today to prepare for
20 the deposition?

21 A. No, I did not.

22 Q. Did you bring any documents with you
23 today in anticipation of this deposition?

24 A. No, sir.

25 Q. Where did you attend undergraduate

1 school? Where did you go to college?

2 A. First undergraduate study was Cooper
3 Union Institute in New York City. That was
4 interrupted by military service. Completed the
5 studies in the Brooklyn Polytechnic Institute, also
6 New York City.

7 Q. What was your area of study?

8 A. Chemical Engineering.

9 Q. And did you graduate with a Bachelor of
10 Science?

11 A. Bachelor of Chemical Engineering.

12 Q. And then did you pursue any other degrees
13 after college?

14 A. I took some postgraduate courses, but I
15 never reached the degree level.

16 Q. And what were those courses in?

17 A. Industrial Engineering, Industrial
18 Statistics. That covers the subjects.

19 Q. And what did you do after you took those
20 postgraduate courses?

21 A. Well, I was working for The Flintkote
22 Company at that time.

23 Q. What year did you begin working for The
24 Flintkote Company?

25 A. June of 1947.

1 Q. I'm going to show you what has been
2 identified as Exhibit A. It's what I believe is
3 your resume. If you could review that and make sure
4 it's up to date and correct?

5 A. Well, I've reviewed it, and it is not up
6 to date.

7 Q. Do you have an up-to-date resume with
8 you?

9 A. No, sir, I do not.

10 Q. And what is missing from the resume I
11 handed you on Exhibit A?

12 A. Well, this resume brings it up to the
13 Product Development Manager, which started in
14 February of 1965. What it omits is 1970, when I was
15 named as the Administrative Assistant to the
16 Corporate Director of Research and Development, and
17 I held that position from 1970 until 1974, when I
18 was named to Product and Plant Safety Manager for
19 The Flintkote Company, and I held that position from
20 1974 until I retired in 1985.

21 Q. Is there anything else missing from your
22 resume?

23 A. Nothing else that I can see.

24 Q. Have you ever taken any courses in
25 Industrial Hygiene?

1 A. No.

2 Q. Have you ever taken any courses or
3 classes on asbestos?

4 A. No.

5 Q. What was your position with The Flintkote
6 Company when you began in 1947?

7 A. The title was Control Chemist, working in
8 a department on product specifications and product
9 quality.

10 Q. And how long did you hold that position?

11 A. I think it was until about 1950. I think
12 it was 1950 to 1951 I was the Plant Chemist in the
13 East Rutherford manufacturing plant.

14 Q. As a Control Chemist between 1947 and
15 1950 or '51 in East Rutherford, did you work with
16 asbestos in any way?

17 A. No. Well, from 1947 until about 1950 I
18 was working in an office. The period from 1950 to
19 1951 I supervised the laboratory technicians and
20 inspectors in the various manufacturing facilities.

21 Q. And how did that job duty involve
22 asbestos?

23 A. Well, some of the products that we made
24 contained asbestos fiber.

25 Q. And this is in East Rutherford?

1 A. Yes, East Rutherford, New Jersey.

2 Q. What products were made during that
3 period while you were supervising in the lab?

4 A. There were two general products. One was
5 the liquid products, asphalt liquid products and the
6 mastics and adhesives. Some of those products
7 contained asbestos fiber. And the other product
8 that contained asbestos was the asbestos cement
9 siding.

10 Q. And when you say supervised the lab, what
11 do you mean?

12 A. Well, I was responsible for the -- I
13 don't recall how many laboratory technicians -- they
14 were running the regular product tests and quality
15 control tests on the raw materials and the finished
16 products, and I also supervised the inspectors that
17 were along the product lines that were doing the
18 visual inspection of the product. I just made sure
19 that they did their job the way they should.

20 Q. And the workers in the lab, did they wear
21 any type of respiratory device or mask during that
22 time?

23 A. No, they did not.

24 Q. As a supervisor for the East Rutherford
25 Plant from 1947 to roughly 1951 were you aware of

1 any other companies or plants similar to yours where
2 they required workers to work masks or respirators?

3 A. I was not aware of that.

4 Q. After 1951 did you get promoted or switch
5 to a different job?

6 A. I returned to the original department
7 that I started working in in 1947 and eventually I
8 became the Manager of that department. Title was
9 General Manufacturing Chemist.

10 Q. And did you remain at the East Rutherford
11 Plant?

12 A. That was in the East Rutherford location,
13 but it wasn't in the plant. It was in the office
14 near the plant.

15 Q. And how long did you hold the position of
16 General Manufacturing Chemist?

17 A. Until I guess it was until 1962.

18 Q. So from about 1951 to 1962 you were the
19 General Manufacturing Chemist at the Flintkote
20 office in Rutherford?

21 A. I think the period was 1953 to 1962.

22 Q. Okay. And what were your job duties as
23 the General Manufacturing Chemist?

24 A. I supervised the three chemists, control
25 chemists that worked in that department, and as I

1 said earlier that department was involved in
2 maintaining product specifications for all of the
3 Flintkote products and maintaining a quality control
4 surveillance for all of the products.

5 Q. When you say all of the products, do you
6 mean all of the products coming out of the East
7 Rutherford Plant or all of The Flintkote Company?

8 A. All of The Flintkote Company.

9 Q. How many --. Strike that.
10 What locations did The Flintkote
11 Company maintain during your tenure as General
12 Manufacturing Chemist from 1963 -- 1953 to 1962?

13 A. Well, in addition to the East Rutherford,
14 New Jersey plant, there were two plants in Chicago
15 Heights, Illinois, a plant in New Orleans,
16 Louisiana, plant in Vernon, California near Los
17 Angeles. There was a felt mill in Ridgefield Park,
18 New Jersey. There was a rubber products plant in
19 Whippany, New Jersey. There was a felt mill in
20 Mount Carmel, Illinois. There was a board mill in
21 Meridian, Mississippi. There was an adhesives plant
22 in Manyunk, just outside of Philadelphia,
23 Pennsylvania. I can't rule out any others. Right
24 now I can't recall any others.

25 Q. That's fine, and if later on you remember

1 another plant, if you could just let me know?

2 A. Yes, sir.

3 Q. So is it fair to say that you were
4 familiar with all the Flintkote products at that
5 time on some level?

6 A. That's correct.

7 Q. Were you in control of how much, if any,
8 asbestos was mixed into The Flintkote Company's
9 products?

10 A. No.

11 Q. Who was in charge of that?

12 A. That would have been either the Plant
13 Chemists in the -- in whatever plant was involved or
14 it would have been someone in the Research and
15 Development Department that developed the product.

16 Q. What were some of the factors that
17 determined whether asbestos was used in a Flintkote
18 product?

19 A. Well, I don't know because I wasn't
20 involved in any of the original formulation of the
21 products, so I don't know what the reason was for
22 incorporating asbestos fiber.

23 Q. Were you ever present in any meetings
24 while at The Flintkote Company that discussed
25 whether or not to use asbestos in the products?

1 A. No.

2 Q. So I take it you were never a Plant
3 Chemist, is that correct?

4 A. I was a Plant Chemist in the East
5 Rutherford Plant for that one year period in 1950.

6 Q. And as a Plant Chemist in 1950, you never
7 determined how much asbestos was used in any of the
8 products?

9 A. I never had the responsibility for
10 determining how much should be in there. We made
11 the products according to formulations which had
12 been established prior to -- prior to my time with
13 The Flintkote Company really, and my duties were
14 just to make sure that the proper amount was used.

15 Q. Well, since you were a Plant Chemist
16 could you tell me why asbestos was used or what were
17 the factors that determined it?

18 A. No, sir, I could not.

19 Q. And is that because you never needed to
20 know that as a Plant Chemist?

21 A. I never needed to know, no. The formulas
22 were established by someone in the Research
23 Department or somebody prior to my employment with
24 Flintkote and I had no reason to know why they used
25 it.

1 Q. Then in 1962 you switched positions with
2 The Flintkote Company?

3 A. Yes.

4 Q. And what did you -- what was your new
5 title?

6 A. I was named Product Manager for flooring
7 and adhesives.

8 Q. How long did you hold that position?

9 A. That was until 1965. The title changed
10 somewhere in there, but I held the same position
11 until 1965.

12 Q. Did your title change to Assistant
13 General Manufacturing Manager?

14 A. Yes.

15 Q. But it was essentially the same job
16 duties?

17 A. It was the same job.

18 Q. And how would you describe your job
19 duties from 1962 to 1965?

20 A. Well, I reported to the Vice-president of
21 Manufacturing and my responsibilities were to
22 oversee the operations of the plants that made floor
23 tile and made the liquid coating and adhesive and
24 mastic line.

25 Q. And since you were an overseer, does that

1 mean you were at meetings all day or what would you
2 do --

3 A. Well, no. Sorry. I kept in touch with
4 the plants through correspondence and through phone
5 conversations with the Plant Managers. I followed
6 their progress in sales, in quality, labor
7 relations, costs, primarily costs, and the general
8 relations with the Sales Department. I made certain
9 that they followed all of the good operating
10 procedures of The Flintkote Company with respect to
11 labor relations and costs and product quality and
12 service. It was just another arm of the
13 Vice-president of Manufacturing.

14 Q. When you oversaw the labor relations, was
15 this at -- which plant was this at?

16 A. Well, this would have been at Chicago
17 Heights tile plant, the Chicago Heights liquid
18 products plant, the East Rutherford liquid products
19 plant and the New Orleans liquid products and floor
20 tile plant. We had another plant in -- for a brief
21 period of time -- in Massachusetts, just outside of
22 Boston. We had another plant for a brief period of
23 time in Whippany, New Jersey, floor tile plant. So
24 those were the plants that I was involved with.

25 Q. When you dealt with labor relations,

1 would you deal with the employees of The Flintkote
2 Company through a Union?

3 A. No. I followed labor relations through
4 the Works Manager or the Plant Manager of the plant
5 and through the corporate personnel and the plant
6 Personnel Departments. The actual negotiations were
7 done by a negotiating committees in the plant and by
8 the Plant Manager.

9 Q. Did you ever deal with employees on a
10 face-to-face basis?

11 A. No.

12 Q. From 1962 to 1965 as a Product and
13 Quality Manager, did you ever hear of any complaints
14 from employees regarding lung problems?

15 A. No.

16 Q. Did you deal with any type of injury of
17 the workers from 1962 to '65?

18 A. Not specifically dealing with injuries to
19 workers or any health problems with the workers.
20 What I would look at was the overall safety record
21 and injury record of the particular plants that I
22 was concerned with.

23 Q. If there was a dangerous condition in one
24 of the plants that was injuring the workers, would
25 that ever get to you up the chain of command and

1 would you ever have the authority to fix that
2 problem?

3 A. It's difficult to answer. I don't know
4 of any dangerous conditions, but if there were
5 hypothetically some condition in a plant which posed
6 a danger for the employees, I would expect to be
7 notified of it and I would follow up with some
8 measures taken at local level to correct it, if that
9 occurred.

10 Q. You listed several plants that you were
11 Product and Quality Manager for from 1962 to '65.
12 Did all of those plants that you mentioned in all
13 the different cities have asbestos products in them?

14 A. Yes, all of those did.

15 MR. KADISH: Excuse me.

16 Clarification. Do you mean asbestos being
17 manufactured or asbestos products located in the
18 plant?

19 MR. VOGELZANG: Sure, I'll ask both.

20 BY MR. VOGELZANG:

21 Q. All those plants that you mentioned from
22 1962 to '65 that you oversaw, were they all
23 manufacturing asbestos products for The Flintkote
24 Company?

25 A. Yes, they were.

1 Q. During the time between 1962 and 1965 you
2 never received any complaints or notices about any
3 workers having lung problems, is that correct?

4 A. That's correct.

5 Q. Were there any types of safety problems
6 from 1962 to 1965 that you had to address personally
7 for the workers?

8 A. None that I recall, no.

9 Q. From 1962 to 1965 in the plants that you
10 were in charge of was there any type of ventilation
11 system that was put in place to control the dust
12 level that was in those plants?

13 A. Are you referring to installations that
14 were put in during that period of time?

15 Q. I'm referring to when the products, the
16 asbestos products were manufactured in the Flintkote
17 plants.

18 A. Well, all of the plants that used
19 asbestos fiber in their production had ventilation
20 and dust collection systems in there, which was
21 prior to 1962.

22 Q. Do you know when those ventilation
23 systems were installed?

24 A. No, sir, I do not.

25 Q. Do you know why those ventilation systems

1 were installed?

2 A. Well, they were installed to remove dust
3 from the plant atmosphere, not only asbestos but
4 there were other dusty materials that were in use,
5 too.

6 Q. Was that for the health of the workers
7 that the ventilation system was installed?

8 A. I don't know why they were installed.
9 Actually those installations preceded my employment
10 with the company in 1947.

11 Q. Did you ever upgrade or were you ever in
12 charge of any problems with those ventilation
13 systems from 1962 to '65 in any of the Flintkote
14 plants?

15 A. I was never aware of any problems with
16 them. I don't know of any upgrade, but that would
17 have been an Engineering Department function and not
18 my function.

19 Q. And then in 1965 --. Strike that.

20 Between '62 and '65 I assume you
21 travelled to all these different plants?

22 A. Yes, I did.

23 Q. And you would walk through them at times
24 to make sure everything was okay?

25 A. Yes.

1 Q. Then in 1965 you were put in a new
2 position for The Flintkote Company?

3 A. Yes.

4 Q. What position was that?

5 A. That was Product Development Manager for
6 flooring products.

7 Q. What were your job duties as Product
8 Development Manager?

9 A. I supervised two and for a period of time
10 three chemists, research chemists, in the research
11 laboratories located in Whippany, New Jersey. Our
12 function was to develop new products, if new
13 products had to be developed, and to follow up on
14 any quality problems that existed in the plants or
15 that we learned of through the Sales Department, and
16 to evaluate raw materials, raw material sources for
17 the flooring products, make any design changes
18 requested by the Sales Department, conduct technical
19 service out in the field for the Sales Department.

20 Q. What flooring products were you
21 supervising over as a Product Development Manager?

22 A. Well, the flooring products that were
23 made in the flooring plants were the asphalt
24 asbestos tile and vinyl asbestos tile.

25 Q. Were you in charge of any adhesive

1 products? Would that be under the title of flooring
2 products?

3 A. No. Adhesive products were in another
4 department.

5 Q. How about the liquid asphalt products?

6 A. That would be another department, in
7 Research. You're limiting your question now to the
8 period from 1965, correct?

9 Q. Yes, and --

10 MR. KADISH: '65 to when?

11 MR. VOGELZANG: That's what I was
12 just going to ask.

13 BY MR. VOGELZANG:

14 Q. How long were you the Product Development
15 Manager starting in 1965?

16 A. Until 1970.

17 Q. From 1965 to 1970 as the Product
18 Development Manager you said you were -- you would
19 make design changes if they were requested, is that
20 right?

21 A. That's right.

22 Q. Who would request the design changes?

23 A. Well, the requests came either from the
24 Sales Department or the Merchandising Department.

25 Q. From 1965 to 1970 as Product Development

1 Manager did anyone within The Flintkote Company ever
2 request that you attempt to make a Flintkote product
3 by substituting the asbestos that had previously
4 been used in that asbestos product?

5 A. Well, actually in -- I think just prior
6 to 1965 the company did make a floor tile that did
7 not have asbestos in it.

8 Q. Now, had that floor tile before 1965
9 contained asbestos and it was changed so that it
10 didn't have asbestos?

11 A. No. It was a new product. It was
12 developed without asbestos.

13 Q. Why was the product developed without
14 asbestos?

15 A. It was developed for the purpose of
16 making a floor tile, vinyl asbestos floor tile that
17 resembled pure vinyl tile. It had a translucent
18 appearance to it. It was -- it wasn't an opaque
19 solid color tile. It had more of the resinous
20 translucency, and it was done to try to match the
21 competitive pure vinyl tile in the market.

22 Q. So it was just for looks?

23 A. No, it was to develop a brand new
24 product, but, as I say, the primary difference was
25 the appearance, the translucency, the appearance of

1 it.

2 Q. Other than the difference in appearance,
3 did the lack of asbestos change the product at all?

4 A. No.

5 Q. During your tenure as Product Development
6 Manager from 1965 to 1970, other than this
7 translucent vinyl tile, was there any product that
8 was switched from containing asbestos to not
9 containing asbestos?

10 A. This would be any flooring product? No.
11 The translucent Vintal product that I referred to
12 was the only one, but that was a new product.

13 Q. And are you aware of any products by The
14 Flintkote Company from 1965 to 1970 that began being
15 developed without asbestos that had previously had
16 asbestos in it?

17 A. Are you talking about any product
18 including flooring?

19 Q. Yes.

20 A. I know of no product that was switched
21 from an asbestos content to a non-asbestos content.
22 I might mention that in the liquid products, if we
23 talk about them, not all the liquid products
24 contained asbestos. There were asbestos and
25 non-asbestos varieties of all those products.

1 MR. KADISH: I think Counsel is just
2 referring to products that contained asbestos that
3 might have been switched to non-asbestos for
4 whatever reason. Is that correct?

5 MR. VOGELZANG: Yes.

6 BY MR. VOGELZANG:

7 Q. In 1970 you acquired a new job title for
8 The Flintkote Company?

9 A. Yes. When I updated my resume earlier
10 this morning, in 1970 I was named the -- what did I
11 say now -- the Administrative Assistant to the
12 Managing Director of Corporate Research and
13 Development.

14 Q. How long did you hold that position?

15 A. Until 1974.

16 Q. Now, your resume here that I marked as
17 Exhibit A states that you were Product Development
18 Manager of flooring from 1965 to 1985, is that
19 correct?

20 A. Well, that's what it says, but that's
21 incorrect. It's --. That only describes the
22 position held from 1965 to 1970.

23 Q. Okay.

24 A. I don't know the origin of that
25 particular document that you're referring to.

1 Q. This was used as an exhibit in a previous
2 deposition taken in November of 2000.

3 A. I know, I've seen it, but I said I don't
4 know the origin of it. It is copied after a resume
5 which I had developed in 1965, sometime prior to
6 1970, but -- how my document became this, I don't
7 know.

8 Q. So from 1970 to 1974 you were in charge
9 of Corporate Research and Development for The
10 Flintkote Company, is that correct?

11 A. I was the Assistant to the Director of
12 Corporate Research and Development.

13 Q. Was that for the entire Flintkote Company
14 or just a particular plant?

15 A. That was for the entire Flintkote
16 Company.

17 Q. What were your specific job duties in
18 1970 to 1974?

19 A. Primarily to assist the Corporate
20 Director. We had a staff of engineers and chemists
21 and it was located in the corporate headquarters,
22 and we conducted outside research. We merely
23 supervised research done in outside laboratories on
24 various product projects.

25 Q. Did the outside research that you

1 conducted from 1970 to 1974 involve asbestos in any
2 way?

3 A. No, not really. Only one involved
4 asbestos product, floor tile, but the others were
5 connected with steelmaking and cement processes,
6 waterproofing systems and adhesive systems. We had
7 quite a number of projects going.

8 Q. What type of research was done regarding
9 asbestos in floor tile from 1970 to 1974 that you
10 were involved in?

11 A. Oh, the project I guess that occurred
12 over about one or two years of that period, an
13 assignment was developed for floor tile that did not
14 contain asbestos.

15 Q. Who did that assignment come from?

16 A. It came from our Flooring Division.

17 Q. What was the purpose of developing floor
18 tile that did not contain asbestos?

19 A. I don't know the purpose for the
20 assignment. The assignment was to develop a product
21 not containing asbestos.

22 Q. Did the Director that you were the
23 Assistant to know the purpose of making floor tile
24 that did not contain asbestos?

25 A. I don't know. It never appeared on the

1 documents that came to us from the Flooring Division
2 requesting the assignment.

3 Q. Was it more expensive to make floor tile
4 that did not contain asbestos?

5 A. I can't answer that because we never
6 completed the assignment.

7 Q. Why didn't you complete the assignment?

8 A. The --. Well, basically the product, the
9 assignment was to make a vinyl asbestos -- or a
10 vinyl floor tile without asbestos equivalent in
11 quality to the vinyl asbestos tile, and to my
12 knowledge they were never able to match the quality
13 or the performance of the vinyl asbestos tile.

14 Q. And to your knowledge that problem with
15 achieving the quality was not a cost issue or was
16 it?

17 A. It was not a cost issue, it was a quality
18 issue.

19 Q. When did you first learn of the dangers
20 of asbestos to a human being?

21 A. In 1974.

22 Q. So when a design change was made when you
23 were the Assistant to the Director of Corporate
24 Research and Development or a design request to
25 change something, you never sat in any meeting and

1 discussed why that change was going to be made, it
2 was just a direct order that came down?

3 A. I never sat in any meetings. Our
4 responsibility began when a request was made by an
5 operating division to develop a certain product, and
6 that was all done by formal paperwork. What
7 preceded that paperwork I don't know and I don't
8 think I ever knew, but if it was approved by
9 management as a project, we would take it on.

10 Q. Was that project to remove the asbestos
11 from the floor tile the first project that you had
12 been involved in where The Flintkote Company had
13 tried to take the asbestos out of a product it was
14 manufacturing?

15 A. Yes.

16 Q. Were you involved in any other similar
17 projects of removing asbestos from a product with
18 The Flintkote Company after that?

19 A. No.

20 Q. Then in 1974 you switched titles again
21 with The Flintkote Company?

22 A. That's correct.

23 Q. What was your new title?

24 A. New title was Product and Plant Safety
25 Manager.

1 Q. How long did you hold that position?

2 A. I held that until my retirement in 1985.

3 Q. What were your job duties as Product and
4 Plant Safety Manager?

5 A. It was twofold. One was to follow the
6 our various manufacturing operations in their
7 health, employee health and employee safety
8 policies. We had a policy manual that described
9 what should be done and how it should be done. And
10 the second responsibility was to oversee the product
11 liability policy and performance of The Flintkote
12 Company.

13 Q. When you say oversee product liability in
14 Flintkote, what do you mean by that?

15 A. Well, Flintkote Company had a policy
16 manual that described the risk management and the
17 product safety and the products liability program of
18 the company. It had to do with advertising, sales
19 representation, the procedures for handling
20 complaints and for following up on complaints,
21 warnings and labels, when necessary, on products, to
22 warn of hazards, and to keep abreast of the use of
23 our product by the product users and make certain
24 that none of them were harmed by the products
25 themselves.

1 Q. You said in 1974 you became aware of the
2 dangers of asbestos, is that correct?

3 A. That's correct.

4 Q. How did you become aware of the dangers
5 of asbestos?

6 A. Well, in --. When I entered into that
7 position I became familiar with all of the work that
8 preceded my entry into that department, and one of
9 them was the OSHA Act of 1970, which identified
10 asbestos as one harmful material.

11 Q. Who held the position of Product and
12 Plant Safety Manager prior to you?

13 A. That would have been Mr. Seymour Weiss.

14 Q. Did you meet with Mr. Weiss about what
15 had been going on as Product and Plant Safety
16 Manager, is that how you learned about asbestos?

17 A. Yes, that's right. Met with him and he
18 turned over the file of that department to me. It
19 was my job to review it and find out what had been
20 done and what was being done, what was important.

21 Q. That file that you just spoke of, how far
22 back did that file go?

23 A. Well, I guess --. I don't know. It went
24 way back, almost to -- at least the part of the file
25 that I was aware of was back into the late '60's,

1 but that job and that department had existed as far
2 as I know in 1947.

3 Q. Did you read through that entire file as
4 Product and Plant Safety Manager when you entered
5 the job?

6 A. Well, I didn't read through the entire
7 file. It was several file cabinets, but I read what
8 was important and what was pointed out to me as
9 important and what I needed to learn quickly so that
10 I could function.

11 Q. Is it fair to say that you were in charge
12 of maintaining that file that held the information
13 of the Product and Plant Safety Manager?

14 A. Well, yes. I was in the office where
15 that file was held and I had responsibility for
16 keeping that file, yes.

17 Q. Did you ever check the file to see
18 how --. Strike that.

19 Did you ever check the file that was
20 in your office to see when The Flintkote Company
21 first addressed the harms of asbestos?

22 A. That's a broad question. Part of that
23 file was the mandatory controls that the company had
24 to put in effect in 1970 following the Department of
25 Labor OSHA Act.

1 Q. Well, I'm not talking about OSHA. I'm
2 talking about what Flintkote -- how Flintkote
3 addressed harms of asbestos or anything that had to
4 do with possible harmful effects of asbestos in the
5 file that was maintained in your office?

6 A. Well, as I say, the file in the office
7 spelled out what was being done by law beginning in
8 1970. Now, I think that I mentioned earlier the
9 plants had dust collection and dust control systems
10 that preceded 1970, that preceded actually 1947.

11 MR. KADISH: I hate to interrupt, but
12 can we take a break?

13 MR. VOGELZANG: Yes. Let's take a
14 five minute break.

15 (Proceedings recessed from 11:25 a.m.
16 to 11:32 a.m.)

17 BY MR. VOGELZANG:

18 Q. Over the break, Mr. Schmitt, did you
19 discuss any part of this deposition?

20 A. Not really, no.

21 Q. When you say not really, what do you
22 mean?

23 A. Well, just a question about how long it
24 would take, but no substantive discussion.

25 Q. We were talking about what was in the

1 file in your office when you were Product and Plant
2 Safety Manager from 1974 to 1985 and you had
3 mentioned that there was stuff in there about the
4 OSHA standards, right?

5 A. Yes.

6 Q. Now, other than the OSHA standards, was
7 there any documents in that file that talked about
8 the harms of asbestos to Flintkote workers?

9 A. No.

10 Q. Now, to your knowledge that file had been
11 maintained for many, many years prior to you coming
12 into that position, is that correct?

13 A. That's correct.

14 Q. And there would be no reason for that
15 file to be destroyed ever, would there?

16 A. Not that I know of, no.

17 Q. Is it fair to say that that file
18 documented all safety concerns within The Flintkote
19 Company nationwide?

20 A. Yes, that's what it contained, yes.

21 Q. When the OSHA standards came out, that
22 was the first time that Flintkote Company became
23 aware in any way of the harms of asbestos to the
24 workers?

25 A. I can't speak for The Flintkote Company.

1 I don't know what The Flintkote Company knew prior
2 to or in 1970.

3 Q. Well, you would know because it was in
4 the file, right?

5 A. Well, the particular file I'm referring
6 to was the file concerning the compliance with the
7 OSHA standard, which had to do with, among other
8 things, of course it covered more than just
9 asbestos, but the mandatory steps that had to be
10 taken by The Flintkote Company and by employees with
11 respect to asbestos fiber.

12 Q. But that file that I'm referring to that
13 was in your office had to do with all safety issues
14 within The Flintkote Company, right?

15 A. Yes, that's true.

16 Q. Did The Flintkote Company ever perform
17 any of their own studies regarding the harms of
18 asbestos to human beings at any time?

19 A. Well, what particular studies are you
20 including?

21 Q. Any studies ever done by The Flintkote
22 Company regarding the harms of asbestos to people.

23 A. No, I know of none.

24 Q. Is there any that you were thinking of
25 there that I didn't include in my question?

1 A. Well, we, again, because of the OSHA Act
2 we were required to conduct tests in the plants in
3 the employee breathing zone and in the area where
4 asbestos fiber was used, to monitor the fibers in
5 the air to make sure that they were below the
6 standards, but those are tests and studies I would
7 include.

8 Q. While you were working at The Flintkote
9 Company from 1947 all the way through 1975, what
10 professional organizations did you belong to?

11 A. Well, bear in mind now we're only talking
12 about possibly a certain --

13 MR. KADISH: You're talking about
14 Mr. Schmitt personally?

15 MR. VOGELZANG: Right.

16 THE WITNESS: One organization was
17 the Gypsum Association. Now, that only would have
18 been in the period after 1974.

19 Another one was the Asphalt Roofing
20 Industry Bureau. Again, that was in the period
21 after 1974. And bear in mind the company was the
22 member and I was merely a representative of the
23 company during certain periods of time.

24 Another one was the Asphalt and Vinyl
25 Asbestos Tile Institute for a period of time between

1 1962 and '65, maybe for a year or two I was a member
2 or a representative, and then another period after
3 1965 up until 1970.

4 And another organization was the
5 ASTM. I was a representative for the company to
6 that organization for a few periods of time, off and
7 on, beginning in 1962. Bear in mind it wasn't for
8 that entire period until 1985.

9 The National Safety Council, I was
10 the company representative under our membership to
11 the NSC. That was after 1974.

12 I can't recall any others offhand.
13 There may have been one or two others.

14 BY MR. VOGELZANG:

15 Q. For the Asphalt and Vinyl Asbestos
16 Institute that you joined or you were the
17 representative for starting in 1962, would you
18 attend the meetings of that Institute?

19 A. I attended the meetings of the Technical
20 Committee. I was the representative on the
21 Technical Committee. I wasn't a member of the
22 Institute itself, the Board.

23 Q. At any time between 1962 and 1974 while
24 you were on the Technical Committee of the Asphalt
25 and Vinyl Asbestos Institute, were the harms of

1 asbestos to humans ever discussed in any meeting?

2 A. No. Now, I wasn't a member for that
3 entire period. I said there were periods of time
4 during there where I was a representative, but not
5 for the full period.

6 Q. Do you say that because you think
7 asbestos was discussed in between there when you may
8 not have been there?

9 A. No. At least when I was there it was
10 never discussed and it never appeared in any of the
11 minutes that I was able to read, so --.

12 Q. What does ASTM stand for?

13 A. American Society for Testing of Materials
14 was the original name of it. It's ASTM now.

15 Q. And did that involve testing materials
16 for quality only or also for safety?

17 A. Primarily for quality.

18 Q. Was safety of the worker a concern of
19 ASTM?

20 A. No.

21 Q. Was asbestos --. Strike that.

22 Were the harms of asbestos ever
23 discussed at any time that you were involved with
24 ASTM between 1962 and 1974?

25 A. No.

1 Q. So in 1974 when you were promoted to
2 Product and Plant Safety Manager, the harms of
3 asbestos was a complete surprise to you, is that
4 fair to say?

5 A. No. I don't think I ever concerned
6 myself about harms of materials or which materials
7 were harmful, but I became aware of that knowledge
8 in 1974. I mean I knew prior to that just from my
9 college education there were a lot of harmful
10 materials out there in the world. I think that's a
11 very general statement, but I was aware of harmful
12 materials, yes, but not in detail.

13 Q. So when you were at Columbia University
14 did you ever sit in any kind of class that talked
15 about the harms of asbestos?

16 A. No.

17 Q. How about at the Polytechnic Institute in
18 Brooklyn?

19 A. No.

20 Q. How about at Cooper Union Institute of
21 Technology?

22 A. No.

23 Q. So --. Well, my question to you was was
24 the harms of asbestos a surprise to you in 1974 and
25 you essentially said no, is that correct?

1 A. Well, I don't think anything is a
2 surprise to me. I mean I can realize from my
3 engineering training that some materials can be
4 harmful.

5 Q. Had you realized prior to 1974 that
6 asbestos could be harmful to human beings?

7 A. Not really. I hadn't realized that at
8 all.

9 Q. Hadn't some OSHA standards come out in
10 1970?

11 A. Pardon me?

12 Q. Hadn't some type of OSHA standards
13 regarding asbestos come out in 1970?

14 A. Well, the OSHA Act was enacted in 1970,
15 which covered quite a number of subjects of health
16 and safety, including asbestos.

17 Q. So would it be fair to say that you had
18 some knowledge of the harms of asbestos starting in
19 1970?

20 A. I didn't have that knowledge because I
21 wasn't concerned with the OSHA Act in 1970.

22 Q. So when you were given the assignment as
23 Assistant to the Director of Corporate Research and
24 Development to try to develop floor tile without
25 asbestos, to your knowledge that had nothing to do

1 with the OSHA Act that came out in 1970 regarding
2 asbestos?

3 A. I said I had no knowledge of why that
4 assignment was given. I didn't connect it with
5 anything.

6 Q. Well, when was the first time you learned
7 of the OSHA Act of 1970?

8 A. In 1974.

9 Q. Now, from 1974 to 1985 as Product and
10 Plant Safety Manager you said you handled
11 complaints, right?

12 A. No, I didn't handle complaints.
13 Complaints were handled at the local level where
14 they originated. I merely was advised of the number
15 of complaints, what complaints they were, the nature
16 of the complaints, and what was being done to
17 satisfy them.

18 Q. Were any of those complaints that you
19 dealt with on any level having to do with the harms
20 of asbestos?

21 A. No.

22 Q. Now, you also said you dealt with warning
23 labels as the Product and Plant Safety Manager?

24 A. Yes.

25 Q. And that was from 1974 to 1985, right?

1 A. Right.

2 Q. Did you ever deal with any warning labels
3 regarding asbestos?

4 A. Yes.

5 Q. And what was the first instance where you
6 dealt with a warning label regarding asbestos?

7 A. One instance I can recall was a private
8 label account we had with one of our competitors,
9 and they had asked that the label contain some
10 information about the content of asbestos fiber, but
11 it was on a liquid product and the wording was
12 not -- wasn't appropriate, because they were looking
13 at asbestos fiber as a raw material, whereas the
14 asbestos fiber in the product was encapsulated,
15 contained, and it wasn't available for free
16 respiration, so I was instrumental in eliminating
17 that labeling, that wording.

18 Q. Do you know what liquid product that was?

19 A. I can't recall what it was anymore, no.

20 Q. Do you know what the label said?

21 A. I can't recall that either.

22 Another instance was our West Coast
23 Division, Los Angeles had put a warning label or a
24 statement on the product label referring to the
25 content of asbestos fiber in three of the liquid

1 products, and the reason why they did that was
2 supposedly to comply with a California State
3 regulation on environmental release of asbestos
4 fiber, but careful reading of the regulations said
5 that any products in which the fiber was
6 encapsulated and bound into the product, they were
7 exempt from the regulation and from any labeling
8 requirements, so as a result we took the wording off
9 of that label, too.

10 Q. Did Flintkote ever sell raw asbestos to
11 any other manufacturers?

12 A. No.

13 Q. From 1974 to 1985 did Flintkote market
14 any of its own raw asbestos fibers with any type of
15 warning for the workers within The Flintkote
16 Company?

17 A. Well, Flintkote, we didn't have --
18 generate raw asbestos fiber. We bought from outside
19 suppliers.

20 Q. Flintkote did not have its own mines?

21 A. No.

22 Q. Are you familiar with the different types
23 of asbestos fibers?

24 A. I'm familiar with some of them, not all
25 of them.

1 Q. Okay. Which fibers are you familiar
2 with?

3 A. Mainly the chrysotile fiber, which was
4 the fiber that we used most of the time, and the
5 other fiber that I'm familiar with that we used on
6 occasion was crocidolite.

7 Q. And did either type of asbestos fiber
8 have a distinguishing feature to them?

9 A. I don't know what you mean by a
10 distinguishing feature.

11 Q. Light blue, a blue color?

12 A. Well, the crocidolite was referred to as
13 blue fiber, but it was not a very blue color.

14 Q. In 1985 you retired from The Flintkote
15 Company, right?

16 A. Yes.

17 Q. Did you ever do any consulting after
18 that, other than depositions like this, for The
19 Flintkote Company?

20 A. No.

21 Q. I'm showing what I've marked as Exhibit
22 B, and this is a list of Flintkote products that was
23 produced to us by Flintkote in this case. If you
24 could go through that list and just check and see if
25 anything is missing or anything is incorrect?

1 MR. KADISH: I'm not sure if
2 Mr. Schmitt would understand what you mean by
3 anything missing. I can understand the correct
4 portion of that question, but is this something
5 that he supposedly has seen before?

6 MR. VOGELZANG: I don't know. This
7 is the first time I've deposed him.

8 MR. KADISH: It has got an exhibit
9 sticker on, so you might know whether it was taken
10 from a previous deposition of his or not.

11 MR. VOGELZANG: I don't know.

12 THE WITNESS: Well, this appears to
13 be a copy of an exhibit I have seen on at least one
14 or two occasions before in earlier depositions.
15 What appears on here seems to be correct. As
16 counsel pointed out, I can't recognize something
17 that might not have existed on this list or might
18 have existed and doesn't appear here now. I don't
19 know what's missing, but it is something that I have
20 seen before, yes.

21 BY MR. VOGELZANG:

22 Q. My question was just to make sure there
23 wasn't any major product that was completely missing
24 from the list. I understand it's a very complex
25 list.

1 A. It's a pretty complex list and it seems
2 to be a complete list of, as I said, similar to the
3 exhibit I've seen before.

4 Q. You've mentioned previously in this
5 deposition about liquid asphalt products. Can you
6 tell me generally what products those would be?

7 A. Well, in all cases they're products that
8 are made with an asphalt base. They are fluid to a
9 degree, ranging from probably the consistency of
10 pancake syrup all the way up to heavy putty
11 consistency. They're all black. Some contained
12 asbestos fiber. They were used as adhesives,
13 coatings, waterproofing agents, mastic sealers,
14 joint sealers. They would be applied by either a
15 heavy spray or a brush or trowel.

16 Q. Did Flintkote make any adhesive product
17 that was not black?

18 A. Yes, they made two types of adhesive
19 products that were not black. They had a rubber --
20 it was a rubber operation out in Whippany, New
21 Jersey that made rubber adhesives, tire coating
22 adhesives, and adhesives for ceiling tiles. There
23 was another operation I mentioned earlier in
24 Manyunk, Pennsylvania. They made a series of
25 adhesives that were resin based, light colored

1 mastic held in?

2 A. May have been as small as one gallon, but
3 most often were in five gallon pails.

4 Q. Exhibit B shows the trowel mastic
5 contained between 22 and 25 percent asbestos. Do
6 you have any reason to disagree with that?

7 A. I cannot disagree with it, no.

8 Q. Do you know where the trowel mastic was
9 distributed within the United States?

10 A. Well, I believe it was made in all of the
11 plants, so it would be distributed pretty much over
12 the entire United States.

13 Q. Is there any other mastic product that
14 Flintkote made that was applied with a trowel?

15 A. Oh, yes. Plastic cement was applied with
16 a trowel. Another trowelable type, but it was
17 applied with a gun-type tube thing, that would have
18 been the joint cement. There were other trowelable
19 mastics. I can't recall offhand all of them.

20 Q. Could the trowel mastic be used on a ship
21 for insulation of pipes or weatherproofing of pipes?

22 A. No.

23 Q. And why couldn't it be used for that?

24 A. Well, when you talk about ships and
25 piping and so forth you're talking about usually hot

1 pipes, and being asphalt based it would soften and
2 run off at temperatures about 100 to 120 degrees, so
3 it couldn't be used for that purpose. It wouldn't
4 be used because it's not an insulating material, and
5 being flammable I don't know that it would be used
6 on board ship because of its flammability.

7 Q. Do you know that the trowel mastic was
8 not used on ships?

9 A. I don't know that.

10 Q. Now, could the trowel mastic be applied
11 over pipe insulation to weatherproof that
12 insulation?

13 A. Well, the purpose of trowel mastic is a
14 weatherproof and waterproofing agent on outdoor
15 roofs around parapets, around pipes and roof edges,
16 and so forth. That's the purpose of it. I don't
17 know whether it could be used on pipes because as I
18 said it being an asphalt product, it softens very
19 easily and would just run off. I don't know that it
20 would be used, and they're not weatherproofing
21 anything aboard ship because it's not exposed to the
22 weather, it's all interior ship piping.

23 Q. Well, there's outdoor piping as well, and
24 if the pipes did not contain a hot substance you
25 could very well use the trowel mastic on that pipe,

1 isn't that correct?

2 A. I don't know that.

3 Q. Have you ever heard of the Newport
4 Shipyard in Virginia?

5 A. Yes, I have heard of that.

6 Q. Do you have any knowledge as to whether
7 Flintkote supplied any products to the Newport
8 Shipyard during your term with The Flintkote
9 Company?

10 A. I don't know that.

11 Q. Do you know who would know that
12 information?

13 A. Most likely somebody in the Sales
14 Department who was in the Virginia area.

15 Q. So as to matters of distribution locally,
16 Flintkote maintained separate offices that were in
17 charge of that?

18 A. Well, the organization of the Sales
19 Department started out with a Vice-president of
20 Sales in the corporate headquarters, and then there
21 were Regional Sales Managers and then reporting to
22 Regional Sales Managers were District salesmen and
23 District Sales Managers, so there was a general
24 hierarchy of salesmen going down to the salesmen in
25 the field.

1 Q. Did the Sales Department in Flintkote's
2 headquarters keep records of every end user of a
3 Flintkote product?

4 A. I don't know that.

5 Q. So is it fair to say that you can't
6 testify as to the distribution of Flintkote products
7 except in a very general manner?

8 A. I don't know anything about the
9 distribution of the products, other than generally
10 that they went to certain areas surrounding the
11 plants, but beyond that I don't know of any
12 distribution.

13 Q. And so you can't say either way if
14 Newport Shipyard as supplied with Flintkote
15 products, right?

16 A. I can't say that at all.

17 Q. Was there a particular Flintkote product
18 that was used on ships to your knowledge?

19 A. Again, I don't know about products used
20 on ships. I know of one product that was formulated
21 for particularly Navy ships. I don't know about
22 maritime ships.

23 Q. What product was formulated for Navy
24 ships?

25 A. That was the Flintdek.

1 Q. How do you spell that?

2 A. F-l-i-n-t-d-e-k. It's one word. I don't
3 know if that appears on here (indicating) or not.
4 Flintdek, it appears on here. It appears on Exhibit
5 B.

6 Q. And on Exhibit B, Flintdek, it states is
7 that Flintdek contains 6 percent asbestos. Do you
8 have any reason to disagree with that?

9 A. I can't disagree with that.

10 Q. How was Flintdek used?

11 A. Well, --

12 MR. KADISH: I object to the form of
13 that. You mean how was it designed to be used?

14 BY MR. VOGELZANG:

15 Q. Sure. How was it designed to be used?

16 A. Well, Flintdek was designed as a compound
17 to be coated on surfaces. It had a sand filler in
18 it, that when the Flintdek dried on the surface,
19 particularly metal surfaces, the sand would give it
20 a non-skid type of coated surface, and I mention
21 that because one of the --. Flintdek came in
22 various colors. As I recall there was a gray and a
23 green and a red, and maybe in two other colors, but
24 one version of it was formulated to match the Navy
25 slate gray. It was formulated as a Navy slate gray

1 variety of Flintdek for use by the Navy if they ever
2 bought it, but I don't know -- as I say, I don't
3 know whether they ever purchased any of it or not.

4 Q. Was Flintdek sold to companies or places
5 other than the Navy?

6 A. Yes, it was.

7 Q. Are you familiar with any products that
8 Flintkote made for coating underneath rail cars of
9 trains?

10 A. Yes.

11 Q. What products would those be?

12 A. Those are some of the railroad coatings.
13 There are a few of them I think in that Exhibit B.
14 There were two varieties. Some contained asbestos,
15 some did not, but they were usually applied by spray
16 coating.

17 Q. Now, the first page of Exhibit B shows
18 several railroad car cements. Are those some of the
19 products that you're talking about?

20 A. Yes, right.

21 Q. And the range of asbestos content goes
22 from 13 percent up to 29 percent. Do you have any
23 reason to disagree with those percentages?

24 A. I can't disagree with that.

25 Q. Is there any mastic product that

1 Flintkote produced that was generally applied with
2 hands, the worker would actually apply the mastic
3 with their hands?

4 A. No.

5 Q. Is there any product at all that -- any
6 Flintkote product that you can think of that was
7 applied with hands?

8 A. Not that I can recall, no.

9 Q. How would you describe the railroad car
10 cements, the consistency and the look of it?

11 A. Most of them were relatively thin. I
12 think the terminology used within the company was
13 heavy paint consistency. That would be much heavier
14 than any house paint that one would come across. It
15 would be a very thick material, it would be
16 approaching honey and molasses in consistency.

17 Q. Did it have a general color to it?

18 A. They were all black.

19 Q. Were there any products that were made
20 according to military guidelines, other than
21 Flintdek, that had to pass or had to qualify for a
22 products list that was used by the military,
23 anything like that?

24 MR. KADISH: I'll object just to the
25 extent that you're referring to the Flintdek as

1 being designed according to military guidelines. I
2 think Mr. Schmitt's testimony was that the company
3 designed it with the hope that the Navy would
4 purchase it, but I don't think he ever testified one
5 way or another as to whether or not it was designed
6 in accordance with any Naval or military guidelines.
7 Maybe you want to ask that first or reformulate the
8 question.

9 BY MR. VOGELZANG:

10 Q. Mr. Schmitt, were there any products that
11 Flintkote made that had to comply with military
12 guidelines?

13 A. One that I can recall was an export box
14 sealer. In fact, that was made at the East
15 Rutherford Plant while I was there, and that was
16 formulated to meet the requirements of a military
17 spec, I think it was an Army spec, on box sealer for
18 export shipping, and we had to test it to meet those
19 requirements and then we had to obtain approval -- I
20 don't recall the terminology -- but it was some sort
21 of certified approved list or something like that,
22 that we had to submit samples to some testing agency
23 and they had to approve it before we could sell it
24 to the military. That's the only one I can recall.
25 I don't recall --. I know there are approved lists

1 and military testing and stuff, but I don't know of
2 any other products that were formulated to that.

3 Q. What did you call that material?

4 A. Export box sealer. That was the name of
5 it.

6 Q. Did the export box sealer contain
7 asbestos?

8 A. I don't believe that it did.

9 Q. Do you know when approximately it was
10 made?

11 A. I can't recall all the dates, but at
12 least it was being made during the period of time
13 1950 to '51 when I was the Plant Chemist in the East
14 Rutherford Plant.

15 Q. Were there any other Flintkote products
16 that had to meet any guidelines say for the Coast
17 Guard or for passenger ships, anything like that?

18 A. Not that I know of.

19 Q. Was there any particular Flintkote
20 product that was --. Strike that.

21 Was there any Flintkote mastic
22 product that was generally applied with a brush?

23 A. No.

24 Q. Was there any Flintkote product that you
25 know of that was applied with a brush?

1 A. Yes.

2 Q. What products or product would that be?

3 A. Well, some of the external coatings for
4 weatherproofing or waterproofing coatings were
5 applied by brush.

6 Some of the roof cements and roof
7 coatings on built-up roofs, they were applied by
8 brush.

9 The Flintdek that I mentioned before,
10 that non-skid coating, that was used on walking
11 surfaces and metal surfaces and industrial floors,
12 that could have been applied by brush.

13 Some of the floor tile adhesives were
14 thin enough. In fact, one adhesive which did not
15 contain asbestos was called on brush-on adhesive.
16 That was a thin floor tile adhesive coating applied
17 by brush.

18 There were quite a number of products
19 that could have been applied by brush. Asphalt roof
20 primer could be applied by spray or brush.

21 Q. Can you give a general description of the
22 Flintkote product, the consistency of it, that would
23 be applied by brush?

24 A. Something again in the category of
25 perhaps thin molasses or pancake syrup. And I might

1 add when we talk about a brush in this case, we're
2 not talking about a sable fiber paint brush. We're
3 talking about heavy bristle brushes, something like
4 you see the street sweepers using or the people
5 coating driveways, they're using a very stiff
6 bristle brush. That's the type of brush that was
7 used.

8 Q. Were all the products that were applied
9 with the brush black in color?

10 A. Well, most of the products on -- or all
11 of the products on this Exhibit B list were all
12 black in color, and the brush-on tile adhesive was a
13 light color, that was a resin based. That did not
14 contain any asbestos. Some of Atlas resin adhesives
15 that were used as adhesives for wallboard or ceiling
16 tile, they could have been applied by brush, some of
17 them were; some of them were applied by putty knife.
18 They were light colored.

19 Q. And I may have asked you this, but did
20 any of the light colored adhesives contain asbestos?

21 A. No, they did not.

22 Q. How was the export box sealer packaged?

23 A. I think it was mostly in five gallon
24 pails.

25 Q. Now, I know you've said how the products

1 distribution of any of the particular products on
2 this list?

3 A. No, I'm not.

4 Q. Are you familiar with a product called
5 Unimastic 150 or FR-100?

6 A. I recall the name, but I'm not that
7 familiar with it.

8 Q. All right. I'm getting this off of
9 Exhibit B from Flintkote and the description is
10 pigment resin coating for insulation, fire
11 retardant. Does that refresh your memory at all?

12 A. Yes, it does. That's what the FR stands
13 for, fire retardant.

14 Q. And do you know in what context this
15 Unimastic 150 would be used in?

16 A. Well, the insulation coatings were a
17 family of products that were made to apply over
18 mainly exterior insulated pipes and tanks. Some of
19 them were designed for cold tanks and ice storage
20 places and cold storage and cold pipes. They were
21 primarily coatings that could be applied by brush,
22 sometimes by spray, to the outside of the insulation
23 on the pipes or the tanks or the other structures,
24 to weatherproof them and waterproof them so that the
25 insulation wouldn't soak up water.

1 Q. Can you say one way or another if this
2 product would be used on a ship?

3 A. Well, I can't say whether it could be
4 used. Again, I can't imagine it being used because
5 of its asphalt content and flammability.

6 Q. But you have no knowledge of whether
7 Unimastic 150 was used on ships, do you?

8 A. I don't know that.

9 Q. And the description says pigment resin
10 coating, so would this mean it's a lighter coating?

11 A. Yes, pigments would have lightened the
12 asphalt up somewhat.

13 Q. How would you describe the color? Would
14 it be a tan or a white?

15 A. I don't know. I can't recall that any
16 longer.

17 Q. But you could say that Unimastic 150 was
18 not black, is that a fair statement?

19 A. No, it was pigmented, so that it had some
20 color to it.

21 Q. So you're agreeing with me in that it was
22 not black?

23 A. Yes.

24 Q. And Unimastic 150 is listed as 7.5
25 percent asbestos, and you have no reason to disagree

1 with me on that, do you?

2 A. I can't disagree with that.

3 Q. Looking at Exhibit B there's a product
4 called number 227 Underbody Coating, and the
5 description is military spec underbody coating
6 asphalt cutback.

7 Are you familiar with that product at
8 all?

9 A. Not specifically, but I recognize the
10 name.

11 Q. What would military spec mean?

12 A. It would mean formulated to meet some
13 military specification.

14 Q. Can you describe what that product would
15 look like?

16 A. Well, it was one of the underbody
17 coatings. In this particular case they mention a
18 cutback. They were emulsion types, too. They were
19 black, they were shiny, they were applied with a
20 heavy spray gun, which was more like a nozzle, spray
21 nozzle about a quarter-inch, and they were applied
22 under cars. Now they don't do it any longer, but
23 they were applied under car bodies and truck bodies
24 to -- as a corrosion resistant coating and to
25 prevent dents and stone bruises and so forth.

1 Q. I forgot to ask earlier, the FR100
2 Unimastic, do you know what kind of container that
3 would be shipped out in?

4 A. I don't recall specifically what type,
5 but it would have been fifty-five gallon drums or
6 five gallon pails.

7 Q. But it would either be in five gallon
8 pails or fifty-five gallon drums?

9 A. Yes.

10 Q. How about the number 227 Underbody
11 Coating, how would that be shipped out?

12 A. Again, it depends on the end use. Most
13 often if it went to a body shop or a Fisher Body
14 plant, it would be shipped in fifty-five gallon
15 drums, because the pumping, spraying equipment they
16 would use would be equipped with a drum follower,
17 which went right directly into the drum.

18 Q. Looking at Exhibit B, there's a product
19 listed Hydrostatic Mastic, the synonymous name is
20 710-21, and the description is semi-mastic vapor
21 barrier coating.

22 Do you know anything about that
23 product?

24 A. Not specifically, no.

25 Q. Do you know what that product would look

1 like?

2 A. Well, it was a coating. It would be
3 probably a brush or spray consistency. It would be
4 black. It would be shiny black, and used mainly as
5 a weatherproof coating, waterproofing and
6 weatherproofing.

7 Q. What kind of container would it be
8 shipped out in?

9 A. It would either be five gallon pails or
10 fifty-five gallon drums.

11 Q. I've just got one more on this list.
12 It's called Rain Patch all-weather mastic?

13 A. Yes.

14 Q. And the description is plastic cement
15 treated to bond to wet surfaces.

16 Are you familiar with that Flintkote
17 product?

18 A. Yes.

19 Q. And could you give me a physical
20 description of that product?

21 A. It was very heavy consistency, somewhat
22 like a very heavy peanut butter, and it would be
23 applied by trowel. It would be black, it would
24 smell of paint thinner.

25 Q. In what context would Rain Patch be used?

1 A. Primarily for outside roof surfaces
2 around openings in the built-up roofing or around
3 the shingle roof surface, but it had a bonding agent
4 in that permitted it to be used on damp surfaces so
5 that it would stick to it, whereas ordinarily the
6 plastic cement would not stick to a damp surface.

7 Q. You said this was used primarily for
8 roofing, but it could have other uses, is that fair
9 to say?

10 A. Well, that was its intended use.

11 Q. When you started with Flintkote in 1947
12 what was the company name? Was it The Flintkote
13 Company?

14 A. Flintkote Company.

15 Q. Did any changes occur as far as acquiring
16 or merging with any companies or name changes while
17 you worked there?

18 A. Well, yes. Towards the tail end there
19 was a change.

20 Q. What was the change?

21 A. I think it was in 1980 the Genstar
22 Corporation acquired The Flintkote Company.

23 Q. Are you aware of any other corporate
24 changes while you worked at Flintkote?

25 A. No.

1 MR. KADISH: You mean corporate name
2 changes or acquisitions, mergers?

3 MR. VOGELZANG: Any changes at all.

4 THE WITNESS: Well, what do you mean
5 by that?

6 BY MR. VOGELZANG:

7 Q. Well, I mean you tell me. If you know of
8 a corporate change as far as the status of
9 incorporation or a name change or --

10 A. Well, would you include acquiring --
11 Flintkote Company acquiring other companies?

12 Q. Yes.

13 A. Well, there were quite a number of them,
14 but they all became Flintkote Company.

15 Well, for an example, in 1945
16 Flintkote acquired Tiletex Company. That was prior
17 to my employment there. But they then sold
18 Flintkote tile, so there was no corporate change
19 there, but the corporation got a little bigger.

20 Q. So in 1945 is when Flintkote began
21 selling vinyl tile?

22 A. Yes.

23 Q. Were there any other acquisitions that
24 added new products to Flintkote's line of products
25 while you worked at Flintkote?

1 A. Oh, yes, quite a number of them.

2 Q. Any major ones that are worth mentioning
3 today?

4 A. Well, we acquired a couple of cement
5 companies, Portland Cement Companies. We acquired a
6 stone quarry and ready mix concrete operation in
7 Maryland. The U.S. Lime Corporation out in
8 California and Nevada and Arizona. For awhile we
9 had -- we had a box -- cardboard corrugated carton
10 manufacturer. These were all acquisitions that
11 became Flintkote operations.

12 Q. Any other ones that you can think of?

13 A. There were other ones. I can't think of
14 them all.

15 Q. Earlier you mentioned that you're
16 familiar with chrysotile and crocidolite asbestos
17 fibers? Which type of fiber would have been in the
18 Colorcoat mastic.

19 A. Chrysotile.

20 Q. And how do you know that chrysotile only
21 was used in that Colorcoat?

22 A. It goes back to the period of time when I
23 was in the department handling specifications and I
24 knew what raw materials were used and where they
25 were obtained from.

1 Q. What year were you in charge of that or
2 had knowledge of that?

3 A. Well, that started in '47 and went up
4 until 1962.

5 Q. Was there any reason that chrysotile was
6 used rather than crocidolite in the Colorcoat
7 product?

8 A. I don't know that.

9 Q. How about for the A-66 product?

10 A. Chrysotile.

11 Q. All the products that we talked about,
12 would that all be chrysotile?

13 A. Yes.

14 Q. And are you aware of any reason why one
15 asbestos fiber was used over another in any of the
16 products that we've talked about?

17 A. I have no knowledge of that.

18 Q. Do you know where you acquired the
19 asbestos fibers?

20 A. From a number of suppliers. There was
21 Thetford Mines Corporation, Canada. There was Bell
22 Mines, Johns Manville, and perhaps two or three
23 other asbestos suppliers. I can't recall all the
24 names now.

25 Q. Do you know the owner of the Thetford

1 Mines while you were working at the Flintkote
2 Company?

3 A. No.

4 Q. The asbestos fiber that you received from
5 the Bell Mines, was that packaged in Johns Manville
6 material?

7 A. Packaged in Johns Manville material?

8 Q. He will, you said Bell Mines from Johns
9 Manville.

10 A. Well, Bell Mines was one supplier and
11 Johns Manville was another one, and I think Ruberoid
12 was another supplier for a period of time.

13 Q. Did the fiber that you received from
14 Johns Manville come in bags?

15 A. For a period of time it came in bags, and
16 then it was shipped in paper and then also in
17 plastic bale covers.

18 Q. When did it switch to plastic bale
19 covers?

20 A. I don't recall when that change was made.

21 Q. Do you know if that was in the '60's or
22 '70's?

23 A. I won't speculate. I don't know.

24 Q. During the time that you worked at
25 Flintkote do you ever recall any Johns Manville

1 fiber packaging having any type of warnings on it?

2 A. I don't recall that, no.

3 Q. So are you saying you don't remember if
4 there was a warning or there was not a warning?

5 A. I don't know for that whole period of
6 time whether there was a warning or not. I didn't
7 recall seeing any.

8 Q. Was there any particular product that
9 Flintkote used crocidolite in?

10 A. Yes, only one.

11 Q. What product was that?

12 A. That was asbestos cement pipe.

13 Q. Do you know why the crocidolite was used
14 in the cement pipe only?

15 A. No, I do not.

16 Q. Did Flintkote sell products for
17 manufacturers, because I know Flintkote manufactured
18 a lot of products, but did it just sell some
19 products?

20 A. I don't understand your question.

21 Q. Were there any products that Flintkote
22 would receive from another manufacturer and package
23 for that manufacturer and ship out?

24 A. Are you talking -- are you speaking about
25 private label?

1 Q. Yes.

2 A. Well, Flintkote did buy private label
3 material from other manufacturers and sell it, and
4 by the same token Flintkote produced material for
5 private label sale by other manufacturers.

6 Q. What companies did Flintkote buy private
7 label material from?

8 A. Well, for a period of time we bought
9 asbestos cement siding from Johns Manville. We sold
10 Owens Corning Corporation fiberglass insulation bats
11 under the Flintkote label. I can't recall the
12 others.

13 Q. When that private label material would
14 come in, it wasn't packaged in any way, was it? Did
15 you have to do all the packaging and labeling, or
16 how did that work?

17 A. No, the private label material was
18 already packaged. All we did was warehouse it and
19 then resell it.

20 Q. So when it was sold would it have --.
21 Strike that.

22 Take, for instance, the cement siding
23 from Johns Manville, when you bought that did it
24 come into Flintkote with the Johns Manville name on
25 it?

1 A. I think that had the Johns Manville name
2 on it, yes.

3 Q. And when it left it still had the Johns
4 Manville name on it?

5 A. Yes.

6 Q. Would there be anything on that cement
7 siding that would show that it had been in
8 Flintkote's possession?

9 A. No.

10 Q. And would that be the same for the Owens
11 Corning insulation?

12 A. Well, the Owens Corning insulation, I
13 think some of it had Flintkote labels on it when we
14 received it and some of it did not.

15 Q. Now, how would Owens Corning put a
16 Flintkote label on?

17 A. Well, the same reason that we did for
18 other companies. We would send them the labels and
19 they would fill the order with material with the
20 labels applied.

21 Q. What companies did you send --. Strike
22 that.

23 What companies bought private label
24 material from Flintkote?

25 A. One was Johns Manville. Mainly tile

1 cement, floor tile cement. And we had shipped some
2 building material, roofing materials, to Celetex.
3 We shipped floor tile cement to both Ruberoid and
4 Kentile. And we supplied some adhesives to I think
5 it was W.W. Henry. And let me try to recall some of
6 the other products. I can't recall, but there were
7 others, other companies.

8 MR. SMITH (VIA CONFERENCE PHONE):

9 This is Mike Smith. We've been going for a couple
10 of hours. I just didn't know how much longer you
11 had to go.

12 MR. VOGELZANG: I'm wrapping up here.
13 I would say within the next fifteen minutes.

14 MR. SMITH: Okay, great.

15 BY MR. VOGELZANG:

16 Q. Mr. Schmitt, did Flintkote have a pattern
17 where they would usually label the private label
18 material before it went out to the companies you
19 just listed or how would that work? Or was it
20 different for each product?

21 A. No, in most cases, in practically all of
22 the cases, the companies would supply the labels to
23 our plant. Celetex, for example, would ship a
24 package of labels and they would order so many pails
25 of some coating, for example, and we would apply

1 their label to those pails and then ship them to the
2 Celetex warehouse.

3 Q. Was there any company or manufacturer
4 that you worked with where one company required a
5 warning label on their particular product that you
6 would put on that product for them?

7 A. Well, I didn't work with those companies,
8 but at least I was aware of, I think I mentioned
9 before, the Celetex label, where I mentioned a
10 competitive label that they had a warning on it and
11 there was no need for the warning. They revised
12 their label. But generally without --. In fact,
13 that was the only instance. We would apply their
14 label. They designed their own label, they shipped
15 the label to us, we put the label on that material,
16 as long as it was consistent for the material. If,
17 for example, we required a do not freeze warning on
18 our label, they would require the same thing,
19 because you're dealing with the same type of
20 material.

21 Q. Were there ever any meetings between the
22 companies regarding labeling?

23 A. I don't believe so. I don't know of any
24 at least.

25 Q. None that you sat in at least?

1 A. None that I sat in, no. You're excluding
2 of course the possibility that a sales person from
3 Celetex and a sales person from Flintkote got
4 together when they made this deal for this private
5 label account. I mean --

6 MR. KADISH: He's just asking were
7 you involved.

8 MR. VOGELZANG: Yes, I'm not
9 concerned with that. Thanks.

10 BY MR. VOGELZANG:

11 Q. Have you ever heard of Dr. Selikoff?

12 A. Yes.

13 Q. When did you first hear of Dr. Selikoff?

14 A. Sometime shortly after 1974.

15 Q. In what context did you hear of
16 Dr. Selikoff?

17 A. Well, I read some articles or I read some
18 documents referring to his studies of the effect of
19 asbestos fiber on employees' lungs.

20 Q. The documents that you read written by
21 Dr. Selikoff, were those in the file that you
22 maintained in your office as Product and Plant
23 Safety Manager?

24 A. Some of those were in the file and some
25 of them came to me after 1974 when I acquired the

1 position.

2 Q. So is it fair to say that you do not know
3 when the articles by Dr. Selikoff were placed in the
4 file that was maintained by the Product and Plant
5 Safety Manager?

6 A. I don't know that.

7 Q. Once Dr. Selikoff's report was read by
8 you, did you discuss with anyone whether or not
9 warning labels should be placed on asbestos
10 products?

11 A. It didn't occur in that sequence, no.

12 Q. Why didn't it occur in that sequence?

13 A. Well, I don't know that that article
14 prompted me to even think about warning labels.

15 Q. Was there anything that ever prompted you
16 to think about warning labels regarding asbestos?

17 A. Well, yes, there were occasions when I
18 thought about that, yes.

19 Q. What occasions would that be?

20 A. Well, one was the occasion when the three
21 labels showed up in the Pioneer products, the
22 California products, and the other the Celetex
23 instance.

24 Q. And in those instances you made a
25 decision that warning labels were not necessary?

1 A. Yes.

2 Q. How did you come to that decision?

3 A. Well, the warning labels were mistakenly
4 phrased because the warnings are against inhaling
5 free asbestos fiber, that is the hazardous material.
6 You cannot inhale peanut butter or mastic. You
7 can't inhale floor tile. There's no hazard involved
8 in -- an asbestos hazard involved in the product in
9 which the fiber is encapsulated, so it was just a
10 misconception about the hazards of asbestos fiber
11 being a hazardous material and in its free form able
12 to cause a hazard by inhalation, but on the other
13 hand the warning labels were applied on products in
14 which the fiber was encapsulated and not in a
15 respirable form.

16 Q. So -- and tell me if I'm wrong --
17 basically it was your opinion that the asbestos
18 coming out of Flintkote was encapsulated and
19 therefore not harmful?

20 A. That wasn't an opinion, that was a fact.

21 Q. All right. Did you hire some scientists
22 to do a study to determine if that's true?

23 A. No, sir.

24 Q. Did you base this off your own education
25 and knowledge?

1 A. I based it primarily on two sources of
2 information. One was the U.S. Department of Labor,
3 who declared that floor tile workers, among other
4 classes of laborers, were exempt from the asbestos
5 regulations because they were dealing with
6 encapsulated products, and I was also based it on
7 knowledgeable information from the State of
8 California. Their Department of Health said that
9 liquid products, roofing products and products used
10 in outdoors that had the fiber encapsulated and
11 bound in a binder did not present any asbestos
12 hazard.

13 So these are knowledgeable reports
14 that were documented and it wasn't based on my own
15 opinion. Of course my own opinion supported it, but
16 I was no authority.

17 Q. So you felt that the government findings
18 along with your own opinion was sufficient to
19 determine that warning labels were not necessary on
20 asbestos products?

21 A. Well, it supported that and there were
22 others in our company that I discussed it with that
23 didn't disagree with me.

24 Q. Were there those that did disagree with
25 you on your policy on warning labels?

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2 information. One was the U.S. Department of Labor,
3 who declared that floor tile workers, among other
4 classes of laborers, were exempt from the asbestos
5 regulations because they were dealing with
6 encapsulated products, and I was also based it on
7 knowledgeable information from the State of
8 California. Their Department of Health said that
9 liquid products, roofing products and products used
10 in outdoors that had the fiber encapsulated and
11 bound in a binder did not present any asbestos
12 hazard.

13 So these are knowledgeable reports
14 that were documented and it wasn't based on my own
15 opinion. Of course my own opinion supported it, but
16 I was no authority.

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18 along with your own opinion was sufficient to
19 determine that warning labels were not necessary on
20 asbestos products?

21 A. Well, it supported that and there were
22 others in our company that I discussed it with that
23 didn't disagree with me.

24 Q. Were there those that did disagree with
25 you on your policy on warning labels?

1 A. Nobody disagreed with me on that, no.

2 Q. But given the governmental findings and
3 the opinions of yourself and your peers, you felt
4 that an independent study of the harms of asbestos
5 was not necessary, is that right?

6 A. Well, I wasn't faced with the decision of
7 whether an independent study was needed, but I don't
8 know of any independent study.

9 Q. Who would determine if an independent
10 study should take place regarding the harms of
11 asbestos within the Flintkote Company?

12 A. I don't know.

13 Q. Well, you were the Safety Manager,
14 weren't you?

15 A. Yes, I was the Safety Manager.

16 Q. Well, do you know under whose authority
17 conducting such a study would fall under, if not
18 yours?

19 A. I'm not certain what sort of study you're
20 referring to. If you can be more specific on the
21 time of study, perhaps I can answer you.

22 Q. Well, when you heard about the warnings
23 that were being used in California you said you
24 became aware of the fact that warning labels might
25 or might not be necessary on asbestos products.

1 A. Correct.

2 Q. My question is did it ever occur to you
3 or anyone in your company that a study should be
4 done independently to determine if asbestos was
5 harmful --? Strike that.

6 Did you ever --. Did it ever occur
7 to you that an independent study should be performed
8 to determine if there were harmful effects to people
9 using asbestos?

10 A. Well, --

11 MR. KADISH: Excuse me. Are you
12 talking just in general or are you talking about
13 plant workers that worked in The Flintkote Company
14 plants making the products? Are you talking about
15 people that are using --

16 MR. VOGELZANG: If you want to object
17 to the form, --

18 MR. KADISH: Yes, I'm objecting to
19 the form, because I think it's confusing.

20 THE WITNESS: Well, you're mixing
21 something up or you're getting me mixed up.

22 There was no question in anybody's
23 mind in the Flintkote Company, at least to my
24 knowledge, in 1974 that asbestos fiber was harmful
25 if inhaled. Now, there's no need to run a study on

1 that. There have been plenty of studies run.
2 Dr. Selikoff mentioned them, the NIAS branch of the
3 Department of Labor published studies. There's no
4 question that inhaling asbestos fiber is harmful.

5 If you're asking me whether we ever
6 left somebody inhale plastic cement to see if the
7 asbestos fiber was harmful, no. It would be stupid
8 to run a test of that nature, because you can't get
9 asbestos fiber out of plastic cement by inhaling it
10 or by anything else. The asbestos fiber is locked
11 in there for periods up to thirty, thirty-five years
12 and it never comes out.

13 BY MR. VOGELZANG:

14 Q. And that's your opinion even if the
15 material is sawed or cut or sanded?

16 A. Well, you can't saw or cut or sand
17 plastic cement.

18 Q. All right. So Flintkote never used any
19 warning labels on any of their products regarding
20 the harms of asbestos, is that right?

21 A. That's correct.

22 Q. And is it fair to say that you do not
23 know when the management at Flintkote first became
24 aware of Dr. Flintkote's studies, since you were not
25 the Safety Manager until 1974?

1 MR. KADISH: You mean Dr. Selikoff.

2 MR. VOGELZANG: Dr. Selikoff, excuse
3 me.

4 THE WITNESS: I don't know when they
5 became aware of that.

6 BY MR. VOGELZANG:

7 Q. Do you know anyone or do you have any
8 direct knowledge about the Newport News Shipbuilding
9 and Drydock Company?

10 A. No.

11 Q. Were you ever in charge of the record
12 keeping done by Flintkote as far as sales and
13 distribution?

14 A. No.

15 Q. Do you know of any Flintkote products
16 that was an adhesive used with turbines?

17 A. With which?

18 Q. Turbines.

19 A. No.

20 Q. Do you know of any adhesive product made
21 by Flintkote that would attach cloth lagging to
22 exterior pipes?

23 A. No.

24 MR. VOGELZANG: I think that's all I
25 have. Do you have any questions?

1 MR. KADISH: No, I don't have any
2 follow-up.

3 MR. VOGELZANG: Just me one more
4 minute to check my notes.

5 BY MR. VOGELZANG:

6 Q. Did Flintkote have an Industrial
7 Hygienist during the time that you worked at
8 Flintkote?

9 A. No.

10 Q. In 1947 when you began working at
11 Flintkote were they using asbestos in their
12 products?

13 A. Yes.

14 Q. And do you know when they first started
15 using asbestos products?

16 A. No.

17 Q. Was there any particular reason that
18 Flintkote did not employ an industrial Hygienist?

19 A. I don't know. I can't answer that.

20 MR. VOGELZANG: That's all I have.

21 Thank you.

22 MR. KADISH: Okay. That's it.

23 MR. VOGELZANG: Mr. Schmitt, at this
24 time you have the option to reserve your signature
25 so that you can read the transcript of this

1 deposition, check for any typos, or you can waive

2 your signature.

3 THE WITNESS: I would prefer to read

4 it.

5 MR. KADISH: Read and sign. Okay.

6 MR. VOGELZANG: The witness reserves

7 and we've requested the transcript within fourteen

8 days, and that's all I have to say. That's it.

9 Thank you.

10 (Deposition concluded.)

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I hereby certify that the evidence
and proceedings are contained fully and accurately
in the notes taken by me of the testimony of the
within witness who was duly sworn by me, and that
this is a correct transcript of the same.

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17

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Daniel R. Stout
Certified Court Reporter
Notary Public

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I hereby certify that I have read the

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foregoing transcript of my testimony taken at the

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within deposition and find it to be true and

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correct.

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JOHN C. SCHMITT, Deponent

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