PLAINTIFF'S EXHIBIT

GP-2109

March 5, 1962

Mr. Floyd B. Piper
Crosby Building
Franklin Street at Mohawk
Buffalo 2, N.Y.

Dear Mr. Piper:

I have been contacted by our traffic department with regard to the possibility of a problem concerning Alex Smith trucking Gypsum products out of our Akron Plant for Johns-Manville Corporation. In as much as the trucking authority restricts activity to Smith's contract with BESTWALL Gypsum Company, this matter has been reviewed by myself and the legal department of Johns-Manville Corporation and we submit the following comments for your consideration as it is our opinion that the terms of BESTWALL's agreement with Johns-Manville are such that Alex Smith's trucking authority is adequate to ship the Johns-Manville products.

Our agreement with Johns-Manville is termed a del credere factor agreement whereby Johns-Manville essentially is only our agent for the sale of gypsum products. I am quoting for your information several sections from our agreement which I believe adequately cover the problem.

"DELIVERIES - Factor is hereby authorized to accept and transmit to Manufacturer orders for Gypsum Products for delivery by Manufacturer direct to buyers on sales made by Factor but subject to the conditions and limitations herein provided.

FREIGHT, TAXES, ETC. - Manufacturer will make delivery of Gypsum Products ordered by Factor hereunder for shipment direct to Factor's customers f.o.b. rail cars, trucks, or other public conveyance at its manufacturing plant or plants. Factor shall pay all freight and transportation charges on Gypsum Products shipped direct to its customers. Factor shall also pay all sales or use taxes and other similar excises or charges which may be levied or imposed by Federal, State or local authorities in respect of all sales made by it hereunder; provided, that Factor shall not be liable for taxes, excises, fees or other Governmental charges which Manufacturer is required to absorb pursuant to any provision or law applicable to sales made hereunder.

TITLE TO REMAIN IN MANUFACTURER - All Gypsum Products which Factor is authorized to sell hereunder shall remain the property of Manufacturer until ownership shall pass from Manufacturer to Factor's customer f.o.b. Manufacturer's plant, and no ownership in said Gypsum Products shall vest in Factor at any time."

We believe in view of the foregoing no particular problem exists, however if you want us togive further consideration to the matter we will be glad to hear from you.

Very truly yours,

Robert L. Smith
Legal Department

RLS:jmg

cc: Alex C. Smith, Inc.
41 East Avenue
Akron, N.Y.
Attention: Mr. Robert Smith

R.J. Finn - Bestwall Gypsum Company