

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

ARTHUR SAMUEL RHODEN,	)	CIVIL ACTION
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
OWENS-ILLINOIS, et al.,	)	
	)	
Defendants.	)	NO. 84-2965

RESPONSE OF DEFENDANT ACandS, INC. TO
PLAINTIFFS' STANDARD INTERROGATORIES

Preliminary Statement

The information used in answering these interrogatories was assembled by authorized employees and counsel for ACandS, Inc. ("ACandS") and was derived primarily from an ongoing review of ACandS' records and information compiled from past and ongoing discussions with ACandS' past and present employees. Because much of the information is of, or relates to, events of years ago, it is difficult, if not impossible, for ACandS to retrieve or reconstruct some of the requested information. Therefore, ACandS reserves the right to amend these responses if new or more accurate information becomes available, or if errors are discovered. Furthermore, these responses are given without prejudice to ACandS' right to rely at trial on subsequently discovered information or on information inadvertently omitted from these answers as a result of mistake, error or oversight.

General Objections

ACandS objects to plaintiff's instructions and/or definitions on the grounds and to the extent that they attempt to impose obligations which are beyond those imposed by the Federal Rules of Civil Procedure. ACandS further objects to plaintiff's instructions and definitions on the grounds and to the extent that they seek to impose an undue burden, seek discovery in violation of the attorney-client and work-product privileges and/or seek to require answers on behalf of other persons or entities. In particular, ACandS objects to the definition of the term "defendant" as including all "subsidiaries, predecessors and/or affiliates" on the ground that it is overbroad and is not

limited to companies operating during the relevant time period or in the relevant geographic area. Furthermore, the term "affiliates" is vague and ambiguous. ACandS has no predecessors and has no subsidiaries relevant to this action and all answers set forth herein are made solely on behalf of ACandS (formerly Armstrong Contracting and Supply Corporation), the defendant named herein. Further, the definition of the term "product" is vague, ambiguous and misleading insofar as it refers to products "distributed" by the defendant and makes a number of interrogatories incomprehensible.

SECTION A.

1. Identify the registered name of the answering defendant as well as all prior names or predecessor entities by which the defendant has existed.

a) For each give the current address and the state of incorporation and whether or not it is an active corporation.

A. ACandS objects to this interrogatory on the ground it is vague and unintelligible in that the phrase "predecessor entities by which the defendant has existed" makes no sense. Without waiving these objections, ACandS answers as follows: The registered name of defendant is ACandS, Incorporated. Its address is 120 North Lime Street, Lancaster, PA 17604. ACandS, Inc. was originally incorporated as Armstrong Contracting and Supply Corporation on November 26, 1957. The Company's name was changed to ACandS, Inc. in June, 1969.

2. Set forth the full and correct name, the principle place of business and the state and date of incorporation of the answering defendant.

A. ACandS, Inc., 120 N. Lime St., Lancaster, Pennsylvania. Incorporated November 26, 1957 in the State of Delaware.

3. Identify all divisions, subsidiaries or affiliated companies to the answering defendant.

A. ACandS objects to this interrogatory on the ground that this Interrogatory is vague, overbroad and not reasonably calculated to lead to the discovery of admissible evidence.

4. For each entity or division listed in response to #3, state whether or not it ever has or presently engages in any phase of mining, manufacturing, sale, supply, distribution, or design of asbestos or asbestos-containing products.

A. ACandS incorporates herein its objections to Interrogatory 3.

5. With respect to each division, subsidiary or company listed in #4, identify the nature and extent of its function during the period of time it was in existence.

A. ACandS incorporates herein its objections to Interrogatory 3.

6. Has this answering defendant been sued under its correct name? If not, please state the correct legal name of the

defendant and provide the information requested in Interrogatory #1 above concerning the defendant as correctly named.

A. Defendant's correct name is ACandS, Inc.

7. Please state whether or not you have ever held a certificate of authority to do business in this state and the address for your registered agent for service in this state.

A. Yes. C.T. Corporation System, 409 East North Street, Greenville, SC 29602.

PRODUCT IDENTIFICATION

8. Have you ever mined asbestos?

A. No.

9. If the answer to the previous Interrogatory is "yes", please state the dates in which you were involved in mining of asbestos, and the locations of your mines.

A. Not applicable.

10. Have you ever sold raw asbestos fiber to any of the co-defendants? If so, in what years and in what quantities did you make such sales.

A. No.

11. As to any product containing asbestos in any form or quantity, has this defendant ever:

a) designed such a product;

b) manufactured such a product;

- c) processed such a product;
- d) sold such a product;
- e) distributed such a product;
- f) relabeled such a product manufactured or designed by another;
- g) held a patent for such a product.

A. ACandS objects to this Interrogatory on the ground that it is over broad in that is not limited to the relevant time period or geographic area and is not reasonably calculated to lead to the discovery of admissible evidence. ACandS further objects to this interrogatory on the ground that the terms "distributed" and "processed" are vague and ambiguous in that they are subject to various interpretations and plaintiff has failed to identify the types and extent of activities those terms are intended to encompass in the context of these interrogatories. Lastly, ACandS objects to this interrogatory and the following sequence of interrogatories insofar as the text of these interrogatories and the information sought therein demonstrate that they are intended for manufacturers of asbestos-containing products and therefore are not applicable to ACandS which is and was a contracting company and did not engage

in the manufacture of asbestos-containing products or the mining, purchase and sale of raw asbestos fibers. Without waiving its objections, since it began operation on January 1, 1958, ACandS has been a contracting company primarily engaged in the installation of thermal insulation. During the period from January 1, 1958 until approximately 1973, the Company utilized and provided various thermal insulation materials containing asbestos when called for by contract requirements/specifications. Those materials were manufactured by others. Further, in connection with its contracting business, ACandS sold some of those products to other entities but the sales were minor and were not a primary business activity of the Company. Also, from December, 1962 until mid-1967, in connection with and as a very minor part of its contracting business, ACandS was involved in the sublicensing of a process for forming coatings by spraying mineral fibers.

As a contracting company primarily engaged in the installation of thermal insulation materials, the Company used a wide variety of asbestos-containing products, including products from

virtually every major manufacturer of asbestos-containing thermal insulation products as well as from other companies. The particular products used on a given job would vary according to the specific requirements and specifications of that contract. Due to its record retention program, the manner in which the Company keeps records and the fact that ACandS has had branches operating throughout the country since it began operation in 1958, ACandS is not able to identify each and every asbestos-containing product it used in the course of its contracting operations. However, the Company used a variety of insulation products and materials, including such general types of asbestos-containing products as: 85% magnesia pipe covering and block insulation; calcium silicate pipe covering and block insulation; asbestos insulating and finishing cement; asbestos-containing spray applied insulation products and a variety of other materials which contained asbestos including mastics and fire resistant jackets. Some of the products which ACandS used in the course of its contracting operations were supplied by their manufacturers under private label agreements.

Since ACandS did not manufacture the asbestos-containing products which it used, the Company does not have sufficient information to respond to this interrogatory with the specificity requested. Some of the product-specific information requested may be contained in the descriptive pamphlets or brochures provided to ACandS by the manufacturers and/or distributors of asbestos-containing products. To the extent that those documents have been retained, they are available for inspection by the plaintiff, at plaintiff's expense, at a mutually agreeable time in Pennsylvania. In so responding, ACandS does not represent that it used each of the products described in those materials.

12. If the answer to the previous Interrogatory or any subpart thereof was in the affirmative, please state the following information about each product:

- a) the manufacturer of the product;
- b) the designer of the product;
- c) the supplier of the raw asbestos fiber used in the product;
- d) the dates of its manufacture or sale by the answering defendant;
- e) the percentage of asbestos content of the product;

f) the type of asbestos used in the manufacture of the product;

A. ACandS incorporates herein its objections and response to Interrogatory 11.

13. In what year did the answering defendant first begin selling or distributing asbestos-containing products? Please be specific for each asbestos-containing product manufactured, sold or distributed by you.

A. ACandS incorporates herein its objections and response to Interrogatory 11.

14. In what year did the answering defendant last sell, distribute or manufacture an asbestos-containing product? Please be specific for each asbestos-containing product.

A. ACandS incorporates herein its objections and response to Interrogatory 11. By way of further response, to the extent that this Interrogatory may be deemed applicable to ACandS' discontinuation of the use of asbestos-containing products in its contracting business, by 1972, the Company was moving to eliminate the use of insulation products which contained asbestos and was encouraging its customers to specify asbestos-free materials to the extent that they were available. Those efforts continued through 1973 and by January, 1974 the Company's policy was that it would not furnish, handle, use or install

products containing asbestos except for products in which the asbestos fibers were encapsulated or coated such as mastics and vinyl asbestos tile.

15. For each asbestos-containing product manufactured and distributed by you, state:

- a) the brand name of the product and the inclusive years of its manufacture and/or distribution;
- b) the asbestos content by weight of each product for each year;
- c) the type of asbestos fiber used in each product;
- d) the application for which such product was advertised or sold;
- e) the temperature ranges for the products used;
- f) whether the product was a cement, a pipe covering a cloth or other type of thermal insulation product;

A. ACandS incorporates herein its objections and response to Interrogatory 11. To the extent that this Interrogatory seeks to require ACandS to identify every asbestos-containing product ever used in the course of its contracting business throughout the United States, it would impose an undue burden and expense, if such identification were even possible.

16. Describe each product as to its color and physical characteristics and appearances.

A. ACandS incorporates herein its objections and response to Interrogatory 11.

17. As to each product, state how such product was packaged or supplied.

A. ACandS incorporates herein its objections and response to Interrogatory 11.

18. Does the answering defendant claim that any patent would cover any product listed in response to the interrogatories above? If so, give the number of each patent, the date same was issued and the number of the patent application that is pending.

A. ACandS objects to this Interrogatory on the ground that it is vague and ambiguous. To the extent this interrogatory is intended to determine whether ACandS ever patented any asbestos-containing products or owned such a patent, ACandS states that it did not manufacture asbestos-containing products, did not patent any such products and did not and does not own any patents on any such products.

19. For each asbestos-containing product manufactured or designed by you, please state the specific batching requirements for that product.

A. Not applicable. ACandS did not manufacture or design any asbestos-containing products. Further, ACandS incorporates herein its objections and response to Interrogatory No. 11.

20. State the time period each particular batching requirement was followed and any changes that were made.

A. Not applicable. ACandS did not manufacture or design any asbestos-containing products. Further, ACandS incorporates herein its objections and response to Interrogatory No. 11.

21. For each asbestos-containing product that you manufactured please set forth the supplier of the raw asbestos fiber used for that product.

A. Not applicable. ACandS did not manufacture or design any asbestos-containing products. Further, ACandS incorporates herein its objections and response to Interrogatory No. 11.

22. As to each product mentioned above, identify the following:

- a) any pertinent trademark that was applicable to the product during any time of its sale;
- b) the label on the packaging of that particular product for each year of its manufacture;
- c) all sales brochures, specification sheets, performance data or other promotional material, as well as any and all installation

materials, data or brochures which would have accompanied or been distributed in connection with the installation, application or use of each of the products listed above.

d) The advertised use of the product (As to this Interrogatory, you may provide a copy of the document in lieu of describing the same.)

A. Not applicable. ACandS did not manufacture or design any asbestos-containing products. Further, ACandS incorporates herein its objections and response to Interrogatory No. 11.

23. For each document listed or described above, please indicate the name or the names of the individuals having custody of said documents or copies thereof, and where they are located.

A. Not applicable. ACandS did not manufacture or design any asbestos-containing products. Further, ACandS incorporates herein its objections and response to Interrogatory No. 11.

24. Please describe in detail the method for disbursement and sale of each asbestos-containing product manufactured, designed or distributed by the answering defendant.

A. Not applicable. ACandS did not manufacture or design any asbestos-containing products. Further, ACandS incorporates herein its objections and response to Interrogatory No. 11.

25. Have any of the products listed in the answer to Interrogatories Nos. 12, 13 & 16 above been altered in chemical composition or asbestos type or content since their first being marketed?

A. Not applicable. ACandS did not manufacture or design any asbestos-containing products. Further, ACandS incorporates herein its objections and response to Interrogatory No. 11.

26. If so, please state:

- a) the trade name of each such product;
- b) the date such product was altered;
- c) the nature of the alteration;
- d) the reason for the alteration;
- e) what person has knowledge concerning the alterations.

A. Not applicable. ACandS did not manufacture or design any asbestos-containing products. Further, ACandS incorporates herein its objections and response to Interrogatory No. 11.

27. Identify all sales literature including brochures, advertisements, pamphlets or other material describing each asbestos-containing product manufactured by you beginning in 1925 and coming forward to date.

A. Not applicable. ACandS did not manufacture or design any asbestos-containing products. Further,

ACandS incorporates herein its objections and response to Interrogatory No. 11.

28. Prior to 1960, did you conduct any tests concerning the health consequences of the use of your asbestos-containing product?

A. Not applicable; use of the phrase "your asbestos-containing product" indicates that this Interrogatory is not directed to ACandS which did not manufacture asbestos-containing products. Without waiving this objection, ACandS responds that it did not conduct any such tests prior to 1960 for any asbestos-containing products utilized in its contracting business; the Company expected any necessary testing to be performed by the products' manufacturers.

29. Prior to 1960, did you conduct any tests concening the health consequences related to the manufacture of your asbestos-containing product?

A. Not applicable; see response to Interrogatories 11 and 28.

30. Do any written memoranda, specifications, recommendations or other written materials of any kind or character related to the testing of said products exist?

A. Not applicable to ACandS; see response to Interrogatories 28 and 29.

31. If so, please state:

- a) identify each such written material or document;
- b) who presently has possession of each such document and where is it located;

A. Not applicable; see response to Interrogatory 30.

32. Have you conducted any tests concerning the health consequences of the use of your product between 1960 and 1975 or the date that the asbestos content was removed from the product, whichever is the later.

A. Not applicable; the use of the phrase "your product" indicates that this Interrogatory is not directed to ACandS which did not manufacture asbestos-containing products. Furthermore, this Interrogatory is objected to on the grounds that it is overly broad in that it is not limited to allegedly asbestos-related "health consequences." ACandS further objects on the ground that the Interrogatory is vague and ambiguous in that it assumes a single "product" from which "asbestos content was removed." Without waiving these objections, and to the extent that the Interrogatory may be applicable, ACandS responds that it has not conducted any such tests concerning health consequences in relation to any

asbestos-containing products utilized by ACandS in its contracting business; the Company expected any necessary testing to be performed by the products' manufacturers.

33. If so, please state:

- a) what tests were done;
- b) who was responsible for conducting the tests;
- c) what the results of the tests were;
- d) identify any documents concerning the tests.

A. Not applicable; see response to Interrogatory 32.

34. When did the asbestos-containing products manufactured by you first contain any warning or caution concerning the health consequences of the use of the product or the breathing of asbestos dust?

A. Not applicable; ACandS did not manufacture any asbestos-containing products. See response to Interrogatory 11.

35. For each such product, please state:

- a) the wording of each warning or caution;
- b) the description of each such printed warning or caution;
- c) the method used to distribute the warning to persons who were likely to use the products;
- d) the date each such warning was issued;

- e) the name, address and job classification of each person who presently has possession of the above-described warning or caution;
- f) identify the warning or caution by date and content;
- g) state whether any industrial psychologist or human factors engineers were consulted prior to utilizing such warnings, or cautions;
- h) identify any special instructions provided with each product regarding its use or safety procedures to be employed by persons handling such product.

A. Not applicable; ACandS did not manufacture any asbestos-containing products. See response to Interrogatory 11.

36. For any warning ever provided on an asbestos-containing product manufactured or distributed by you, please state:

- a) when the warning first appeared;
- b) what was the precise wording of the warning when it first appeared;
- c) was the warning ever altered, amended or changed in any manner and, if so, how and when;
- d) where was the warning located on the product or packaging;

A. ACandS incorporates herein its objections and responses to Interrogatories 11 and 34-35.

Without waiving its objections, and to the extent this interrogatory may be deemed applicable to ACandS' contracting operations, ACandS states that

to the extent the manufacturers or distributors of the products utilized by ACandS affixed warnings or cautionary labels to their products, such labels would have been affixed to the product or product packaging in question at the time of its delivery at the job site or to ACandS. ACandS does not have records sufficient to enable it to recite or produce the warnings or labels provided by the manufacturers or distributors of the products it used. Further, in compliance with OSHA requirements, ACandS provided warning labels for use on asbestos-containing products and asbestos waste materials. The OSHA required warning read:

CAUTION: CONTAINS ASBESTOS FIBER
AVOID BREATHING DUST
BREATHING ASBESTOS MAY CAUSE
SERIOUS BODILY HARM

Those labels were worded in accordance with the applicable OSHA regulations and were first made available within the Company in 1972.

37. When did you first become aware that warnings were placed on products distributed by other defendants?

A. ACandS does not have records which enable it to determine when it first became aware of such warnings.

38. State the manner in which each of your products was shipped and the type of container it was shipped in to the retailers.

A. Not applicable; the use of the phrase "your products" indicates that this Interrogatory is directed to entities other than ACandS. ACandS incorporates herein its response to Interrogatory 11.

39. When, if ever, did you specifically inform the purchaser or user of your products that contained asbestos that the use of that product or exposure to asbestos dust could cause cancer, asbestosis or other serious diseases? Please identify the document containing this information by date and location.

A. Not applicable; the use of the phrase "your products" indicates that this Interrogatory is directed to entities other than ACandS. ACandS incorporates herein its response to Interrogatory 11. To the extent that the interrogatory may be directed to ACandS, it is objected to on the ground that it assumes that mere use of "products" or mere "exposure" to asbestos dust can cause "cancer, asbestosis or other serious diseases."

40. Identify any and all labeling or relabeling agreements in existence since 1925 between you and any other person including co-defendants.

- A. ACandS objects on the ground that this Interrogatory is overly broad in time and geographic scope, is not related to plaintiffs' claims, and is not reasonably calculated to lead to the discovery of admissible evidence. Further, see response to Interrogatory 11.

41. Did you sell any of your products containing asbestos fibers or any raw fiber to any of the companies named as co-defendants in this suit?

- A. ACandS objects to this interrogatory on the ground that this Interrogatory is overly broad in time and geographic scope, is not related to plaintiffs' claims, and is not reasonably calculated to lead to the discovery of admissible evidence. Moreover, the use of the phrase "sell any of your products" indicates that this Interrogatory is directed to entities other than ACandS. See response to Interrogatory 11.

42. If so, please state:

- a) the name, address and job classification of each individual who currently has possession of such knowledge, either by documents or records;
- b) please list the names of each co-defendant to whom your products have been sold;

c) please state the dates of each such sale and the amount and kind of materials sold;

A. ACandS incorporates herein its objections to Interrogatory 41.

43. State whether your company manufactured asbestos-containing insulation products for a co-defendant and placed the co-defendant's labels, logos or insignia on said products and list each such co-defendant.

A. No.

44. Has this defendant ever acquired another corporation, company or business which manufactured, sold, processed, distributed or contracted to apply insulation products containing asbestos.

A. Objection. ACandS objects on the ground that this Interrogatory is overly broad and seeks irrelevant information since, among other things, it is not limited to the relevant time period or to companies operating in the relevant geographic area and is not reasonably calculated to lead to the discovery of admissible evidence.

45. If the answer to the above interrogatory is yes, please state the following concerning such other entity:

- a) the full and correct name;
- b) the principle place of business;
- c) the state of incorporation;
- d) the date of its acquisition by you;

e) the products that the other entity manufactured, distributed sold or used.

A. ACandS incorporates herein its objections to Interrogatory 44.

46. Did you ever stamp or imprint the name of your company, its initials or any identifying logo on any of your asbestos-containing products? If so, please describe the identifying logo or initials and the dates of its inclusion on the product and the product on which it was included.

A. Not applicable. Use of the phrase "your asbestos-containing products" indicates that this Interrogatory is directed to entities other than ACandS. See response to Interrogatory 11.

47. As of the date of your answers to these Interrogatories, is your company still manufacturing, selling or distributing any asbestos-containing products? If so, give the brand names of each such product.

A. Not applicable. See response to Interrogatories 11 and 14.

48. For each product identified as being manufactured, sold or distributed by you in interrogatories No. 12; 13 or 16, state whether or not:

- a) you have actual containers or photographs of containers in which said products were sold or distributed;
- b) who is the custodian or keeper of said containers or photographs including their address and telephone number.

A. ACandS incorporates herein its objections and response to Interrogatories 11, 12, 13 and 16.

49. From what source or sources did you obtain raw asbestos fiber beginning in 1940 and going to date, on a yearly basis?

A. Not applicable. See response to Interrogatory 11.

50. State whether or not any warnings, cautions, caveats or directions accompanied the raw asbestos fiber referred to in the previous Interrogatory and identify the nature and extent of said warnings, cautions, caveats or directions accompanying said fiber.

A. Not applicable. See response to Interrogatory 49.

51. State what date said warnings, cautions, caveats or directions first appeared on the mined asbestos fiber.

A. Not applicable. See response to Interrogatory 49.

52. If you have discontinued manufacturing and/or selling asbestos products, please state the reason or reasons therefore.

A. ACandS incorporates herein its objections and responses to Interrogatories 11 and 14.

NOTICE

53. When was the first time that you received notice that any person was claiming an injury as the result of using asbestos-containing products manufactured and/or sold by your company?

A. To the extent this interrogatory refers to products manufactured "by your Company" it is not applicable to ACandS which did not manufacture asbestos-containing products. To the extent this Interrogatory refers to products sold "by your Company" ACandS incorporates herein its objections and response to Interrogatory No. 11. By way of further response, the first time ACandS received notice of any products liability action in which any person was claiming an asbestos-related injury as a result of the use of asbestos-containing products allegedly manufactured and/or sold by ACandS was June 2, 1969 when the Company was served with a complaint, summons and notice in the case of Potter v. Fibreboard Paper Products Corp., et al., United States District Court for the Eastern District of Texas, Civil Action File No. 6329. The Company was dismissed from that action by Order entered July 6, 1970.

54. For each such injury that you received notice of or a claim for prior to 1970, please list:

- a) the name and address of each claimant;
- b) the date of the notice of each claim;

- c) a description of the claim (i.e. workmen's compensation or a third party liability action);
- d) the type of injury allegedly sustained;
- e) the name and address of each attorney who represents individuals making such claims;
- f) the style and the court number of each claim;
- g) the resolution of each claim that has been disposed of;
- h) the custodian of the records that relate to the claim (in lieu of answering the above question, you may attach copies of any and all claims).

A. In addition to the action referred to in response to Interrogatory 53, ACandS received notice of the following products liability actions in which an alleged asbestos-related injury was claimed as a result of the use of asbestos-containing products allegedly manufactured and/or sold by ACandS prior to 1970:

1. Borel v. Fibreboard Paper Products Corp., et al., United States District Court for the Eastern District of Texas - Beaumont Division, Civil Action File No. 6449. ACandS was dismissed from the action by Order dated May 22, 1970.
2. Parker v. Combustion Engineering et. al., United States District Court for the Eastern

District of Louisiana - Lake Charles
Division. The action was served on ACandS
around August 12, 1967. The action against
ACandS was terminated by non-suit in mid-1970.

55. Do you contend that insulation products containing asbestos can be manufactured or treated so as to eliminate all potential health hazards to workers installing the same? If so, please explain in detail what your contentions are and the basis for each contention.

A. Objection; ACandS objects on the ground that this Interrogatory is overly broad and not reasonably calculated to lead to the discovery of admissible evidence since, among other things, it is not limited to allegedly asbestos-related health hazards and inquires about present knowledge. Further, this Interrogatory is vague and ambiguous in that it does not specify the specific products or manner of use being referred to and is further vague and ambiguous in its reference to "all potential health hazards." Lastly, this Interrogatory appears to seek expert opinions and appears to be directed to manufacturing defendants and not to ACandS which did not manufacture asbestos-containing products.

56. Did you receive any reports or communications from your workmen's compensation insurance carrier or products liability insurance carrier with regard to the hazards incident to the use of asbestos-containing insulation products? If so, please state who has possession of the contents of such reports, the location of such reports and the substance of the contents of such reports, listing for each such report the respective insurance company, its address, the agents signing such correspondence and the date of such notice or report.

A. ACandS objects to this Interrogatory on the ground that it is overly broad in time and scope and thus is not reasonably calculated to lead the discovery of admissible evidence. Without waiving those objections, ACandS responds that, at times, it received Engineering Department Reports and Construction Loss Control Reports from its insurance carriers. Some of those reports mention dust control. They do not deal with medical aspects of any health hazards.

57. Have any of the co-defendants named in this litigation ever furnished you with any information as to the state of the medical knowledge regarding the connection between asbestos dust exposure and the contracting of pulmonary diseases including asbestosis and cancer.

A. Objection. ACandS objects to Interrogatory 57 on the grounds that it seeks discovery of materials obtained and/or prepared in connection with and in anticipation of litigation. Furthermore, this interrogatory is overbroad since, among other

things, it is not limited to the relevant time period.

58. If the answer to the preceeding Interrogatory is in the affirmative, please identify:

- a) what information you were furnished;
- b) who furnished that information;
- c) when that information was furnished.

A. ACandS incorporates herein its objections to Interrogatory 57.

59. Have you at any time since 1930 interchanged results of research tests, medical studies or experiments regarding the state of the medical knowledge regarding the connection between asbestos exposure and the contracting of pulmonary diseases including lung cancer and asbestosis with any other person, including any co-defendants in this action?

A. Objection. ACandS objects to Interrogatory 59 on the ground and to the extent that it seeks discovery of materials obtained and/or prepared in connection with and in anticipation of litigation. ACandS also objects to this Interrogatory on the grounds it is overbroad in that it is not limited to the relevant time period and is vague and ambiguous in its reference to "state of the medical knowledge." Further, ACandS did not exist before November 26, 1957 and has not conducted

such medical studies, research, testing or experiments.

60. If the answer to the preceeding Interrogatory is in the affirmative, please state:

- a) when this interchange took place;
- b) who participated in these interchanges;
- c) summarize the content of these interchanges or studies.

A. ACandS incorporates herein its objections and response to Interrogatory 59.

61. Please state if you or anyone on your behalf ever conducted, sponsored or contributed financially to any studies or research to determine if the inhalation of asbestos fibers may be harmful.

A. No.

62. If the answer to the above question is in the affirmative, please state:

- a) by whom the research was conducted, giving complete names and addresses;
- b) the dates that each such research project or test was conducted;
- c) the complete results of each test or study;
- d) identify all documents that refer, reflect or relate to the test or study;
- e) supply copies of the reports of the research department pertaining to the use by the corporation of asbestos in their manufacture of insulation products.

A. Not applicable.

63. Please state the names and addresses of your chief medical officers from 1930 until the present time, listing the periods of time each such medical officer was employed by defendant in that capacity. If you did not have a medical officer, please indicate what persons or persons performed that function.

A. None.

64. Please state the names and addresses of all physicians who were employed, retained or otherwise engaged by you at any of your facilities from the years 1930 until the present.

A. Objection. ACandS objects to Interrogatory 64 to the extent that the term "otherwise engaged by you" is vague and ambiguous. Without waiving that objection, ACandS responds that it has never had a physician as a regular employee nor has it employed a physician in any part time basis at any of its locations.

65. Please state the names and addresses of all persons employed by you from 1930 until the present time who functioned as industrial hygienists. As used in this interrogatory an industrial hygienist is one who performs engineering or health studies to identify and evaluate potential health hazards and suggest methods of dealing with the same.

A. None, as such.

66. For each industrial hygienist listed above, please state:

- a) the facility or office to which that individual was assigned:
- b) the complete and precise duties and responsibilities.

A. Not applicable. See response to Interrogatory 65.

67. Did anyone ever make any recommendations and/or suggestions to you pertaining to the risks and hazards associated with the manufacturing or use of insulation products containing asbestos?

A. ACandS objects on the ground that this Interrogatory is compound, overly broad, is not related to the plaintiffs' claims, is not limited to alleged health hazards associated with the inhalation or ingestion of asbestos fibers and is not reasonably calculated to lead to the discovery of admissible evidence. ACandS further objects to this interrogatory to the extent it is invasive of the attorney client and/or work product privileges.

68. If the answer to the above question is yes, please state:

- a) where such recommendations or suggestions were made;
- b) who made such recommendations or suggestions;
- c) to whom were these recommendations or suggestions made;

- d) the substance of the recommendations or suggestions;
- e) what actions did you take as the result of those recommendations and suggestions?

A. ACandS incorporates herein its objections to Interrogatory 67.

69. Do you agree that there is a causal connection between the asbestos dust exposure and

- a) asbestosis?
- b) lung cancer?
- c) mesothelioma?
- d) other cancers?

A. ACandS objects to this Interrogatory on the ground that this Interrogatory calls for the statement of an expert opinion and the disclosure of work product without satisfying the requirements of the Federal Rules of Civil Procedure.

70. If your answer to the previous Interrogatory is yes as to any or all subparts, please identify the following as to each disease process listed above:

- a) when and how you first learned of such connection;
- b) if the knowledge was obtained by the attendance at any conference, lecture, convention, symposium or meeting, identify such event and provide the name of the person attending or the documents obtained from that meeting;

- c) if knowledge was obtained from the medical or scientific study or any other published works, identify the same;
- d) if the knowledge was otherwise obtained, identify the manner of receipt of the document or communication.

A. See objection to Interrogatory 69.

71. With regard to any knowledge obtained subsequent to that identified in the previous Interrogatory, please identify:

- a) all documents or other communications, oral or written, concerning the causal connection between exposure to asbestos dust or asbestos products and the disease processes identified in question No. 60 above;
- b) identify the person communicating the information.

A. See objection to Interrogatory 69.

72. When and by what manner were you first aware of the hazards of asbestos or asbestos-containing products to the users of those products?

A. Objection. ACandS objects to this Interrogatory on the ground that it is overly broad and vague in its inquiry concerning "hazards" to "users". Furthermore, this interrogatory is vague in its failure to specify the types of hazards referred to and its failure to specify the industry and the products to which it refers. Without waiving these objections, since it began operations in

1958, ACandS has been a contracting company with branches operating throughout the United States. In light of the size and geographic scope of those contracting operations it is virtually impossible to identify any one specific time at which the Company was "first aware" of the "hazards of asbestos or asbestos-containing products to the users of those products". However, in the mid to late 1960's and into the 70's, various Company employees were developing an increasing awareness that there might be potentially serious health hazards to insulation workers as a result of the occupational inhalation of asbestos fibers contained in asbestos-containing products although there was (and the Company understands still is) some dispute and lack of understanding about the exact hazards or extent of inhalation required to create them.

73. Identify any medical examination programs offered or sponsored by you or your insurance carrier for employees handling or otherwise exposed to asbestos and asbestos products. With respect to each such program, please state:

- a) the manner of communicating with employees about such program;
- b) whether examination was mandatory or optional;

- c) what percentage of workers permitted to undergo such examination actually participated;
- d) what percentage of workers were found to have asbestosis or mesothelioma or bronchogenic carcinoma;
- e) with respect to (d), what percentage of such workers were paid disability, workmen's compensation benefits or for whose benefit medical expenses were paid to undergo treatment for such conditions.

A. ACandS objects on the ground that this Interrogatory is overly broad in time and scope, is not related to plaintiffs' claim, and is not reasonably calculated to lead to the discovery of admissible evidence.

74. Identify all trade organizations, associations or other entities, including but not limited to ATI, IHF, NAIMA, AIA, NICA, TIMA, QAMA, PICA, QAPA, to which you have belonged or in which you have participated since 1925 and the years of your participation.

A. ACandS objects on the ground that this Interrogatory is overly broad in time and scope, is not related to plaintiffs' claims, and is not reasonably calculated to lead to the discovery of admissible evidence. Moreover, this Interrogatory is vague and unintelligible in that it identifies organizations solely by letters or acronyms which may identify various organizations and which, thus are not completely or readily understood by

ACandS. Without waiving this objection, ACandS responds that it is a member of National Insulation Contractors Association ("NICA").

ACandS was a member of NICA's predecessor, IDCNA from January 1, 1958 until October 4, 1961 and has been a member of NICA since June 22, 1972. In addition, the Company's various local offices belong to local contracting associations.

75. Identify all persons attending on your behalf any meetings held by any trade organization listed in the Interrogatory stated above.

- A. ACandS objects to this Interrogatory on the ground that it is overly broad in time and scope, is not related to plaintiffs' claims, and is not reasonably calculated to lead to the discovery of admissible evidence. Furthermore, it is unduly burdensome to require ACandS to identify every person who has ever attended any meeting of any trade organization or other entity, if such identification were even possible.

76. Identify the names or nature of all asbestos notes, reports, studies or other writings submitted by you or received by you at meetings identified in the Interrogatory stated above.

A. ACandS incorporates herein its objections to Interrogatory 75. ACandS further objects to this interrogatory on the ground it is vague and ambiguous.

77. Identify all documents you received from or submitted to those trade organizations, associations or other entities identified in Interrogatory #65 relating to the relationship between asbestos exposure and disease.

A. ACandS incorporates herein its objections to Interrogatory 75. Without waiving the foregoing objections, ACandS responds that it has not located any materials received from the organizations which appear to be named in Interrogatory 65, which deal with the medical aspects of asbestos inhalation and disease. The Company has received materials which are related to the "asbestos problem" such as the NIMA publication "Recommended Health Safety Practices for Handling and Applying Thermal Insulation Products Containing Asbestos", and materials from NICA relating to various subjects such as OSHA regulations pertaining to the handling of asbestos-containing products, insurance issues and the like.

78. Did you direct to be performed, sponsor, finance or receive the results of any studies or tests performed by the Saranac Lake Laboratory or the Trudeau Foundation relating to asbestos exposure and its effect on human life? If so, identify:

- a) all documents summarizing findings or results of those studies or tests which you have in your possession or control;
- b) all communications, oral or written, between answering defendant and Saranac personnel, including but not limited to Gerrit W. H. Schepers, M.D.;
- c) all documents relating to Saranac studies received or submitted by you, either directly, through associated or predecessor companies, through other companies, or through any trade associations, organizations or entities;
- d) all recommendations or findings of such studies in relating to:
 - 1. adequacy or inadequacy of the threshold limit values;
 - 2. the substitution of materials other than asbestos to be used in insulation process;
- e) where the documents and/or communications identified in this Interrogatory are presently maintained.

A. ACandS did not "direct to be performed, sponsor [or] finance" any such studies or tests. ACandS has "become aware" of those studies in connection with this and other litigation.

79. Identify all persons who have testified on your behalf and all documents presented to or utilized in preparation of testimony before the Occupational Safety and Health Administration, the National Institute of Occupational Safety and Health, any U. S. Congressional committee or sub-committee or

governmental hearing or investigative proceeding on the subjects of biological effects on human life from exposure to asbestos and the setting, modification, feasibility and acceptance of allegedly safe or proper levels of such exposure to asbestos and asbestos products.

A. None.

80. For all testimony set forth above, please identify:

- a) the dates and descriptions of the proceedings;
- b) the relationship between the person who testified or responded and you;
- c) all studies, test results or other scientific or medical documents relied upon by said person as a basis for any recommendation made or testimony given;
- d) whether at any time prior to or following such testimony you possessed knowledge of documents suggesting that existing or proposed threshold limit values were not safe or proper or that lower threshold limit values were necessary in order to prevent disease; as to this response, please identify the origin of the knowledge and all documents relating thereto;
- e) whether at any time prior to or following such testimony you were aware that the proper method for determination of safe levels of asbestos dust was to test concentrations of fibers in the air rather than the total number of particles. If your answer is in the affirmative, identify the origin of said knowledge and all documents relating thereto.

A. Not applicable.

81. What do you understand "threshold limit value" to mean?

- A. ACandS objects to this Interrogatory on the ground that it is overly broad, vague and not reasonably calculated to lead to the discovery of admissible evidence. The phrase "threshold limit value" is not related to any particular substance, or any specified use or uses of that substance.

82. What do you understand "dose response relationship" to mean?

- A. ACandS objects to this Interrogatory on the ground that it is overly broad, vague and not reasonably calculated to lead to the discovery of admissible evidence. The phrase "dose response relationship" is not related to any particular substance, or any specified use or uses of that substance. Among other things, the phrase "dose response relationship" can be applied to prescription drugs, a subject matter totally unrelated to the instant litigation.

83. What is being measured when you take the measurement of threshold limit value as you define it?

- A. ACandS incorporates herein its objections to Interrogatory 81.

84. Did you advertise any of your asbestos-containing products for use on ships or navy vessels?

- A. Not applicable. The use of the phrase "your asbestos-containing products" indicates that this Interrogatory is directed to entities other than ACandS. See response to Interrogatory 11.

85. If the response to Interrogatory No. 84 was yes; please state:

- a) the name of the product;
- b) in what years you advertised the product;
- c) the intended purpose of the product.

- A. Not applicable.

86. Did you design any asbestos-containing products for use on ships or navy vessels? If so, please state

- a) the name of the products;
- b) the year of their design;
- c) the manufacturer;
- d) the intended use.

- A. No.

87. Did you sell any asbestos-containing materials to the:

- a) United States government?
- b) General Services Agency?
- c) United States Navy?

d) any naval shipyard?

e) any shipyard?

A. ACandS objects to this Interrogatory on the grounds that it is overly broad in time and geographic scope and, thus, is not reasonably related to the plaintiffs' claims and not reasonably calculated to lead to the discovery of admissible evidence.

88. Do you ever conduct any dust studies in any of your asbestos product manufacturing facilities? If so, please state:

- a) the date of each such study;
- b) the person conducting the study;
- c) the result or conclusion;
- d) who presently has possession of the report or study.

A. Not applicable. ACandS has no "asbestos product manufacturing facilities."

CERTIFICATE OF SERVICE

Undersigned certifies that the pleading or paper to which this certificate is affixed was served upon the party(s) to this action by hand delivery or by depositing a copy of same, enclosed in a first class, postpaid wrapper properly addressed to the attorney(s) of record for such other party(ies), in a post office or official depository under the exclusive care and custody of the United States Postal Service, on this 10 day of February, 1987.

CHARLESTON, SC

2/10, 1987
Charleston, SC

ROBERT H. HOOD & ASSOCIATES
172 Meeting Street
P.O. Box 1508
Charleston, SC 29401

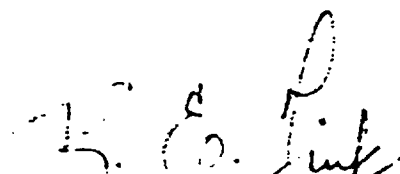
By Louis P. Hearn
ROBERT H. HOOD
LOUIS P. HERNS

Attorneys for the Defendant
ACandS, Inc.

COMMONWEALTH OF PENNSYLVANIA :
: ss.
COUNTY OF LANCASTER :

AFFIDAVIT

R.E. Fink, being duly sworn according to law, deposes and says: I am Secretary-Treasurer of ACandS, Inc. and am authorized to take this Affidavit on its behalf; I have read the foregoing Responses to Plaintiff's Interrogatories and know their contents; the facts stated therein are true and correct to the best of my knowledge, information and belief.



R.E. Fink

Sworn to and subscribed
before me this *3rd* day
of *February*, 1987.



Notary Public

My Commission Expires:

KAREN L. DREYANKO, Notary Public
Lancaster, Lancaster County, PA
My Commission Expires Oct. 30, 1989