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Attorney-Client Communication

Attorney Work Product

MEMO: To Helen Marsh, Esq.

FROM: Robert L. Goodbinder, Esq.

REGARDING: Interview of April 7, 1989 with Earl B. Smith.

DATE: April 12, 1989

On April 7, 1989 I met with Earl B. Smith in Long Beach, California. We spent the entire day discussing his background and his involvement with the business activities of Desert Minerals Inc. and American Mineral Company. This memorandum is a summary of that interview from my personal notes. This memorandum and notes are being incorporated into the Factual Outline of the history and business of these two companies.

EBS BACKGROUND: EBS has a chemical engineering background. From 1953-1958 he was a Technical Representative for Spencer-Kellogg. During that time he met Joe Ellsworth who subsequently taught him the talc business. Because EBS's background was in the paint and organic chemicals business it was natural for him to go to work for Desert Minerals in 1961. In 1963 he was promoted to sales manager and remained in that position until leaving Desert on June 4, 1973 after it was acquired by JM. He left Desert/JM only because he saw a move to Denver coming and did not want to leave Southern California. He also perceived there was no future for him with JM because it was such a large corporation. Upon leaving Desert/JM he went to work again for Spencer-Kellogg as Western Region sales representative specifically in the area of paints and resins. He retired from their employ approximately three years ago and is currently 64 years of age. He contemplates not working again but is extremely knowledgeable about Desert/JM and because of his position with them and the fact that it was so small a company he has vast knowledge particularly about the product line, sales and their distribution system. He has expressed a sincere desire to help with regard to any information we need to gather or confirm and says he has boxes of documents and memorabilia from his tenure with Desert and Desert/JM.

EBS ON DOCUMENTS: He confirms that to the best of his

knowledge all Desert and American documents regarding sales and distribution systems are stored at the Lompoc, California facility. Additionally he has a number of documents and other materials stored in his garage. He is willing to have us pick those up or review them in California. He has expressed his willingness to help with the interpretation and review of those materials.

He cursorily reviewed the Desertalc Handbook and attachments provided to me. He indicates that they are incomplete and that there is at least one other and maybe two additional volumes which would complete the set. Apparently the materials contained in these additional volumes would be comprised of information regarding distribution, sales and marketing efforts. Tom Remmers or Harry Keefe of JM-Celite Division should have information regarding these. He says that Herb Kranich is the individual who originally assembled the materials for the Desertalc Handbook.

EBS ON SALES, MARKETING AND DISTRIBUTION: Desert's primary markets for talc products were: 1. paint, 2. ceramics, 3. cosmetics, 4. plastics, and 5. rubber which was a very small part of sales, never more than 1% of total sales.

From 1961-1969 were years of tremendous growth in sales volume: $500,000 in 1961 to $3,500,000 in 1972 the last year for which EBS had recall without the benefit of sales records. However in approximately 1970-71 the specter of

tremolite reared its head and it was seen as a developing problem which scared Bill Grantham as CEO. Because eastern talcs were far more tremolitic than California talcs in general the "scare" affected them more directly and did not greatly affect the marketing of Desertalc products. Growth in sales had been steady because the ore bodies owned by the Grantham's was consistent in its high whiteness and extremely large. These properties, including a relatively consistent tremolite content of either approximately 5% or 30% depending on the mine from which it came, made the product more marketable than other competitor's talc, particularly those from the west. As a result of these consistent properties the Grantham talc was sold in crude form to many other talc processors. A particularly large consumer of Grantham crude talc was Sierra. Other processors which purchased crude were Western Talc, which became Vanderbilt, and Kennedy Minerals, which became C. K. Williams. After the acquisition by JM there were still sales of crude to other processors. They all could have sold to rubber manufacturers, but EBS could express no thoughts about that.

An important fact is that here was no steam operated micronizing equipment in California except theirs. From this he indicates that no other processor would have bought crude talc for compounding into rubber products because no one in California could process it properly for use as a compounding agent. This is not true for dusting talc as any processor

agent. This is not true for dusting talc as any processor could sufficiently process crude for use for that purpose.

There is attached hereto a list of Desert and American distributors revised to March 31, 1972. Generally distributors could sell to anyone in their respective market. Most of the distributors were focused on the paint and coatings industry, the ceramics industry and later on the paper industry when the CYCLONIZED products were developed. It appears that all distributors were terminated after the acquisition by JM.

Many accounts were sold directly particularly when they were in areas not served by distributors. EBS, Joe Ellsworth, and Tom Remmers all sold accounts directly who were not serviced by the distributors. Generally, with one exception, compounding talc was sold directly to the plastics industry.

RUBBER INDUSTRY SALES, MARKETING AND DISTRIBUTION: There was only one distributor to the rubber industry, C. P. HALL COMPANY OF CALIFORNIA. They bought very little product and it was almost exclusively dusting talc. Their sales were exclusively to small rubber producers and certainly none was sold to any of the major rubber manufacturers.

There was only one direct account in the rubber industry sold by Desert. This was Xylos, a division of Firestone Tire

and Rubber Company. They only processed reclaimed rubber in their plant in Los Angeles. They only bought dusting talc and only for the plant in LA. This is presumably because of the proximity of the LA plant to American's mill in LA. No other rubber manufacturer in California was ever sold any talc directly by Desert. Very little talc was sold to rubber processors anywhere in the country.

Benson Chemical Corporation of Seattle may have sold to rubber companies in Seattle, but any distributor could have sold to any rubber company in their area. This is extremely unlikely though. EBS indicates that if we can get a customer list he could review it for likely sales candidates. Because C. P. Hall is still in business it is likely they could tell us who in the rubber industry bought Grantham talc. EBS thinks that they never sold to anyone outside of California in the rubber industry but can't be sure until he examines a customer list. Upon examining a customer list he could then give us an affidavit to that effect!

EBS says that there was never much talc sold to the rubber industry because it was generally a low profit product because it was not highly processed and he had deemed it to be a potentially small market. He indicated that he could not remember whether or not the dusting talc which was sold was tremolitic or not. If we can provide a customer list EBS can tell us whether or not a customer in the rubber industry was

sold direct. Sales of both compounding talc and dusting talc was less than 1% of total sales at it's highest level! When asked to evaluate the U.S. market for talc to the rubber industry EBS was hard-pressed to comment because he perceived the market to be so small as to be unimportant, at least from Desert's perspective.

EBS ON UNIONS: Dan Tash, plant manager at the American facility would have the most extensive knowledge regarding this. EBS says that both the Dunn, CA mill and the American mill in LA had Teamsters-Oil, Chemical and Atomic Workers. Grantham miners were not unionized.

EBS ON SAFETY AND HEALTH RESPONSIBILITY: Dan Tash would have the most extensive knowledge about this.

EBS ON MSHA/OSHA: Dan Tash would have the most extensive knowledge about this.

EBS ON DUST CONTROL: There were evacuators used at the packing portion of the mill. There were occasional fines from the APCD as the plant was under the freeway and the inspectors would frequently stop to observe plant operations from a vantage point on the freeway.

EBS ON PROTECTIVE EQUIPMENT: He says the mill workers did use respirators.

EBS ON INDUSTRIAL HYGIENE: Dan Tash would have the most extensive knowledge about this.

EBS ON PHYSICAL EXAMINATIONS: He thinks they were required to take annual physical examinations.

EBS ON MINING: He indicated to me that the information assembled in the factual outline is accurate for all subheadings.

EBS ON MILL LOCATIONS AND DATES OF OWNERSHIP/OPERATION: Says the Dunn mill was acquired in 1971, but that an option existed for it's purchase as early as 1969. John Casio of JM operated the Dunn facility after the acquisition. Ron Langston and Steve Hard would have more extensive knowledge about this.

EBS ON MARKETING AND ADVERTISING: A one man advertising agency handled all advertising for Desert. The agents name was Ad Larson (honest!) of Glendale, CA. Most advertising was placed in the trade journal titled "WESTERN PAINT REVIEW". this was read by paint customers which were the bulk (80%) of Desert's market. Almost all ads done by Larson were for the paint market with the balance aimed to the ceramics market.

EBS ON HEALTH ISSUES: When EBS left Desert/JM in June of

Desert/JM. EBS says that the October 24, 1972 form memo to customers in response to numerous customer complaints and inquiries. These came about because of JM's placing of warnings on the talc bags regarding tremolite. He believes this was done as a result of a regulation that required a warning regarding tremolite in talc.

He says no representations were made generally until Dr. Selikoff started speaking publicly on hazards and then the only comments made were responses such as the October 24, 1972 memo.

EBS ON SALES-PATENTS, TRADEMARKS AND TRADENAMES: He says there probably were no patents but that Dick Lamar would have the most extensive knowledge about this.

EBS ON SALES-REBRANDING AND LICENSING: He says neither occurred.

EBS ON KNOWLEDGEABLE PERSONS: Attached hereto is a company roster current to December, 1971 with notes on the current locations and status of Desert and American personnel.

END-Another interview with EBS needs to be scheduled to gather and confirm information for the remaining outline points and to review the documents in his possession.

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Attorney Work Product

Desert Minerals Inc.
Product Line Descriptions

DESERTALC TYPES AND GRADES

Desert Minerals Inc., a former Johns-Manville affiliate, in an attempt to develop and promote both its name and products, incorporated "DESERTALC" as the registered trademark for talc (magnesium silicate) products. In the late 1960's they researched and developed a line of products trademarked as "CYCLONIZED". These products were specifically designed for the paper and rubber industries. Desert also marketed a line of clays under the trademark of "P.V. Clay". These clays were best suited for the ceramic industry.

There were several numerical "Series" of products in the DESERTALC lines. They were classified numerically according to their chemical and physical properties, degree of fineness, and method of pulverization or processing. The first digit of a grade number is the designation for the type or origin of the crude talc ore used. For example, DESERTALCS beginning with the digit "5" identify the crude ore as Grantham first layer or G-1 talc. The last digit indicates the fineness of each grade ranging from "1" for the coarsest grade through "7" for the finest grade.

Two-digit grades indicate Raymond roller mill pulverization with air separation or roller-mill grinds followed by "fractionization," a mechanical means of separating a roller-mill pulverized talc into two components, fine and coarse. An Alpine air classifier was used to accomplish fractionation.

The DESERTALC MIKRO series were expressed in three-digit numbers as DESERTALC MIKRO 500, and 900 series. DESERTALC MIKRO products are roller-mill grinds followed by "micronization" in Raymond high-speed vertical mills. In the micronization process the talc is reduced to sub-screen particle size.

For identification to distinguish special or non-Grantham talcs, a three-digit classification system was also utilized. The DESERTALC "100" series were cosmetic and pharmaceutical grades. The DESERTALC "200" series of general industrial low-cost grades was discontinued prior to 1973. The DESERTALC "300" series

consisted of only one product, a chloritic talc produced for ceramics.

The clay products marketed under the name of P.V. Clay and White Rock Clay were all roller-mill grinds produced from the same crude ore. No "fractionated" or "micronized" grinds of the clays were manufactured. P.V. Clay was produced in three grinds: NO. 1, coarse; NO. 2, fine; and NO. 3, medium fine.

CYCLONIZED grades of talc began with roller-mill pulverization followed by CYCLONIZATION. There was also an air separation unit in the CYCLONIZATION process that separated the CYCLONIZED talc into fine and coarse fractions. The coarse fraction was sold to the ceramic industry.

In order to easily identify the type and grade of each DESERTALC, the various products are broken into groups or series. There were eight different "Series" of DESERTALCS. Four different distinct crude talc ores made up these eight series. A brief description of each series follows:

DESERTALC "50" AND DESERTALÇ MIKRO "500" SERIES

These talcs were extremely white, soft, low in lime or calcium oxide content, acicular-platy in particle shape, and high in magnesium silicate. These properties were ideally suited for use in paint, paper, ceramics, plastics, and rubber where high-quality performance was required and preferred. All government specifications for industrial talcs were met. The "50" and "500" Series talcs were mined from the first layer Grantham crude talc classified as G-1 talc.

DESERTALC "20" AND DESERTALC MIKRO "700" SERIES

These talcs were very platy, soft and white. They were most generally used for improved slip and flow where higher oil absorption and low abrasiveness were required. The crude ore was from the Grantham mine second layer classified as G-2 talc.

DESERTALC "100" AND DESERTALC MIKRO "900" SERIES

From this non-Grantham, semi-steatite cosmetic crude ore, was manufactured many of the cosmetic and pharmaceutical grades, principally the DESERTALC HI-PURE SERIES. The particle shape was platy, low in lime content, and high in chemical purity. This crude was the only talc ore processed which contained no tremolite (an asbestiform mineral).

DESERTALC "80" SERIES

These grades were platy-acicular in particle shape, white, low abrasive, and generally similar to the DESERTALC "50" and "20"

series. These medium oil absorption talcs were made from the G-1 and G-2 Grantham talc ores.

It is necessary to distinguish the "50" series DESERTALC HI-FINE 80 from the "80" series. DESERTALC HI-FINE 80 made from G-1 talc was a fractionated talc. The name diverges from the normal classifying system and was the only exception in the product line. HI-FINE 80 was the most widely used paint-grade talc. It was used in automotive undercoats and sealers, primers, traffic paint, wood finishes, and for architectural paints.

DESERTALC "300" SERIES

Representing the only talc product in this series was DESERTALC 302. The crude ore for this product contained large quantities of the mineral chlorite, giving it a high alumina content. When formulated with kaolin in the proper proportion and fired at high temperatures, synthetic cordierite is produced. Cordierite is essential where high heat-shock resistance in ceramic products is needed, such as in ceramic kiln furniture. The center of this industry is in the Eastern Ohio region.

The products are categorized into the following groups by grades and types. They are designed as standard, cosmetic, fractionated, micronized, CYCLONIZED, and clay grades for reference.

STANDARD GRADES

All roller-mill grinds. DESERTALC 51 and 52 were generally sold to the ceramic tile and hobby artware industries. The major use of DESERTALC 51 was for the talc portion in casting slip formulas for artware ceramics. Artware ceramics are handcrafted, low fired ceramics. Pieces such as figurines that begin with a talc/clay casting slip are poured into a mold for product formation and then fired, glazed and refired for a finished product. Another use of DESERTALC 51 was for the manufacture of highway marking dots.

DESERTALC 302 was used for the production of synthetic cordierite.

DESERTALCS 53, 54, 55, 84, and 85 were the prominent grades sold to the paint industry. These were used primarily as extenders.

DESERTALCS 21, 23, and 25 were sold to the paint and plastic industries in limited quantities. These grades were also suitable for the construction industry for joint cements. They were also used as fillers for automotive body putty as well as being used in ceiling and wall textures, acoustical spray textures, stucco, tile grout, gypsum wallboard dusting, and ceiling tile panels.

COSMETIC GRADES

All roller-mill grinds. DESERTALCS 102 and 104 were blends of Grantham talc.

DESERTALC HI-PURE 142, 143, and 144 were premium grades of talc used primarily in cosmetic and face powders where purity, whiteness, and softness were required. HI-PURE products were tremolite free.

DESERTALC USP was used where specifications called for talc passing the United States Pharmacopoeia specifications, for example in the pressing of tablets.

FRACTIONATED GRADES

Grades produced by the fractionization method had lower oil absorption but near equal fineness when compared with grades of the same crude ore produced on the micronizing equipment. No grinding is done after pulverization with fractionated products, only particle separation. Micronized products were different as they were ground down, producing more fines and thus a higher oil absorption than fractionated grades. The only fractionated talcs produced were the "50" series talcs.

DESERTALC HI-FINE 80 was used in the paint industry replacing DESERTALCS 54 and 55.

DESERTALC HI-PRESS was the coarsest fraction from the Alpine classifier. It was used in ceramics where better pressing properties were required.

DESERTALCS 56 and 57 were ultra-fine fractionated grades having intermediate oil absorption values. DESERTALC 57 while widely used in paint, was also used as a reinforcing filler in polypropylene thermoplasics. Prior to the usage of talc as a filler for polypropylene, anthophyllite asbestos was incorporated as the filler. Asbestos was phased out because of its health hazards. Based on tests talc was the best replacement for asbestos.

MICRONIZED GRADES-ULTRAFINE

Two grinds each of three crude talc ores were produced on the micronizing equipment.

From G-1 talc came DESERTALC MIKRO 506 and 507, ultra-fine talcs with oil absorption values higher than the fractionated DESERTALC 56 and 57.

From G-2 talc was produced DESERTALC MIKRO 706 and 707, platy-micaceous, high oil absorption, ultra-fine talcs. They were used in paints and in industrial sealers and primers.