

MAR-110

MINUTES OF THE ANNUAL MEETING

of the

CONTROLFRICTION MATERIALS STANDARDS INSTITUTE, INC.

Wednesday and Thursday, June 16 and 17, 1982

at

Sawgrass, Ponte Vedra Beach, Florida

ACTIVE MEMBERS PRESENT

Abex Corporation
 Bendix Corporation
 Brassestos Manufacturing Corporation
 Certified Brakes, Lear Siegler Company
 Delco-Moraine Division
 Guardian Corporation
 Nuturn Corporation
 P. T. Brake Lining Company, Inc.
 H. K. Porter Company, Inc.
 Raybestos-Manhattan, Inc.
 Reddaway Manufacturing Company, Inc.
 Thiokol Corporation
 Virginia Friction Products
 S. K. Wellman Corporation
 Wheeling Brake Block Mfg. Co., Inc.

OTHERS PRESENT

Abex Corporation
 Bendix Corporation
 Cougar Automotive Corp. (Regional)
 Delco-Moraine Division
 H. K. Porter Company
 P. T. Brake Lining Company

 Raybestos-Manhattan, Inc.
 Reddaway Manufacturing Company
 Wheeling Brake Block
 Asbestos Compensation Coalition

 Legal Counsel
 Friction Materials Standards Institute

REPRESENTATIVES

Robert E. Nelson, Vice President
 Francis E. Messier
 William Simon, Treasurer
 Robert J. Anderson
 Donald L. Zarick
 Norman Morse
 Larry DeFrance
 Stuart Comins
 W. Max Sleeth
 David E. Cunningham
 John M. Moore
 John P. Gallagher
 Thomas Kennedy
 Gordon A. Carrigan, President
 Lee Burgess (6/16)

Philip H. Grim, Jr.
 James W. Armstrong
 Alex Tabori
 Fred Yost
 George J. Bohrer
 Steve Doyle
 Ben Kublin
 Donald J. Testa
 F. William Barton
 Rob Burgess (6/16)
 Dave Pullen (6/16)
 Dennis Ross (6/16)
 Robert P. Gorman, Counsel
 Edward W. Drislane, Secretary

Mr. Carrigan, President, called the meeting to order at 1:30 PM, June 16, 1982. As the first order of business, Mr. Carrigan called for a roll call.

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Mr. Robert E. Nelson, Abex Corporation
Mr. Gordon A. Carrigan, S. K. Wellman Corporation
Mr. F. William Barton, Reddaway Manufacturing Company
Mr. David E. Cunningham, Raybestos-Manhattan, Inc.

Mr. Carrigan, President, called for nominations from the floor. Mr. Comins offered the name of Mr. Norman Morse of Guardian Corporation in nomination. Mr. Morse declined the nomination.

Upon motion duly made, seconded and unanimously passed, it was:

RESOLVED: That nominations for the Board of Directors be closed.

The Secretary was directed to cast one ballot for the election of Mr. Robert E. Nelson, Mr. Gordon A. Carrigan, Mr. F. William Barton, and Mr. David E. Cunningham to the Board of Directors. The Secretary advised that the ballots had been so cast. The President advised that with the election of these four Directors that the Board had the required seven Members.

Mr. Messier advised the Membership that it was the Committee's intention to recommend the following slate of Officers for election at the Board of Directors meeting following the first Membership session:

For President	-	Mr. Robert E. Nelson
For Vice President	-	Mr. Stuart Comins
For Treasurer	-	Mr. William Simon
For Secretary	-	Mr. Edward W. Drislane

HEALTH AND ENVIRONMENTAL AFFAIRS COMMITTEE

Mr. Armstrong, Chairman of the Health and Environmental Affairs Committee, presented this report. Refer to EXHIBIT 9.

Mr. Armstrong noted actions taken by the Committee and the Institute Office since earlier meetings. He noted in particular that concern was rising relative to litigation in the asbestos area, and proposals for Federal Legislation in the Compensation area. Based on this concern, the Committee met with representatives of the Asbestos Compensation Coalition relative to its activities, and recommended that a representative of this Coalition address the full Membership at this Meeting.

He also noted the concern with landfill and waste disposal requirements. At its meeting, this Committee asked that the Board of Directors approve a request to the Federal EPA on approved landfills for friction materials waste, and asked that the Board suggest the means for making such a request. Mr. Armstrong reviewed general OSHA and EPA activities in areas of concern to friction materials manufacturers and noted that the Institute had written NIOSH for either a final report or a status of the NIOSH contract for "Health Hazards in Brake Lining Repair and Maintenance Workers Occupationally Exposed to Asbestos."

Mr. Armstrong discussed litigation and it was noted that if an individual was covered by workmens compensation, that party then could become a plaintiff in a third party suit against a supplier of asbestos or asbestos products. The problem with landfills was that their availability was drying up, and sites and waste transporters were less accessible and considerably more expensive. The waste problem is probably more of a chemical problem with phenols, formaldehyde, solvents and the like. It was noted that representatives of the Asbestos Compensation Coalition were at the meeting, and their presentation might answer questions in the litigation and insurance areas.

Upon motion duly made, seconded and unanimously passed, it was:

RESOLVED: To accept the report of the Health and Environmental Affairs Committee as written.

ASBESTOS COMPENSATION COALITION

The President welcomed Mr. Dave Pullen of the Asbestos Compensation Coalition to the Meeting, noting that Mr. Pullen had been invited to address the Membership after earlier contacts with Mr. Armstrong's Health and Environmental Affairs Committee. Mr. Carrigan felt it was timely that the Coalition had accepted this invitation to our Meeting because of the increased concern on litigation and insurance relative to asbestos exposure cases. Mr. Pullen introduced Mr. Dennis Ross who is also with the Coalition. Both Mr. Pullen and Mr. Ross presented the Coalition's up-date on the compensation issue and alternated in this presentation. For background, it was noted that the following were members of the Coalition: Celotex Division of Jim Walter; Asarco; Pittsburg Corning; Unarco, Johns-Manville, Raybestos-Manhattan, Amatek, and Eagle Pitcher. The earlier legislative initiatives were noted including the Hart Bill, the Fenwick Bill and the Miller Bill. The Coalition saw merits and shortcomings in each of these, and felt that while they did not have a complete package to offer at this time, they needed broader support and would encourage meaningful input from Institute Members and others. It was stated that there are now 18,000 lawsuits in the asbestos area, and there are more asbestos-related lawsuits in the courts than car accident suits. The allegations are that asbestos products manufacturers knew of the health problem and did not warn the exposed worker. Lately, the issue of "strict liability" has arisen where it would not matter if the manufacturer didn't know of the health hazards—he could be held liable in any event. (Subsequent to the Meeting, for instance, on July 7, 1982 the New Jersey Supreme Court (in Beshada v. Johns-Manville Products Corp.) held manufacturers in that State strictly liable for asbestos-induced harm regardless that due to the limited state of the art they could not then have known of the health hazards posed by asbestos.)

The increase in litigation has several roots. There has been an erosion in the exclusivity of workmens compensation as the remedy incases of exposure. The plaintiff bar favors this activity as the fees are on a contingent basis. Some State Workmens Compensation Programs are plainly inadequate requiring that claims be filed within two or three years of exposure. Some State plans are now moving to requirements of two to three years after manifestation of the disease.

Mr. Pullen suggested the poor distribution of funds to the injured party with distribution of a typical \$100,000 award. Such an award could go up to \$60,000 in fees, \$5,000 in costs, \$10,000 to repay Workmens Compensation, and the final \$25,000 to the injured party for lifetime medical costs. Counting the costs of the defendant parties, and including the costs of defending successfully where no award is made, it may cost \$200,000 to get \$15,000 to the injured party. This system of awards is wasteful, and it is suggested that some other system should be better. A suggestion that there be fifty uniform laws in this area for the 50 States is both unrealistic and costly. It is suggested additionally that such uniform plans in the 50 States do not bring the United States Government in as a participant when the Government-run shipyards of World War II have been responsible for a majority of the cases in litigation today. Mr. Pullen and Mr. Ross suggested that if a State-by-State approach is not the solution, that the solution may be the Federal Government, acting on Four Principles:

1. Settlement be prompt, adequate and equitable
2. Proof of injury would be on clearly defined medical evaluation and (avoiding the "Black Lung" theory where any exposure is sufficient proof)
3. Costs would not be dumped on the taxpayers--the burden must be laid on those responsible
4. Such settlement would provide the exclusive remedy, prohibiting bringing third party litigation.

The Government would itself bear 50% of the total costs, as roughly 50% of exposure occurred in shipyards at wartime.

Mr. Pullen noted the three earlier legislative initiatives on asbestos compensation: S1643-- the Hart Bill, HR5224-- the Fenwick Bill, and HR5735-- the Miller Bill. Both the Hart Bill and the Fenwick Bill are dead. While the Miller Bill is technically alive, it is probably politically dead.

The Coalition has recommended a new legislative approach. Among the advantages would be that it does not federalize workmens compensation, but rather works within the existing State workmens compensation framework. It would safeguard the funding, as the implementing resolutions would have a limited life of five or ten years, and the entire resolution could be terminated if the pay-out exceeded the funds available, which would reinstate tort litigation as the remedy. In other words, this would avoid the possible unlimited funding which could result from legislation of the "Black lung" variety.

Copies of a "Summary of the Occupational Disease Compensation Improvement Act and the Implementing Resolution for Asbestos Related Diseases" were distributed. The Coalition had prepared these Summaries to describe and generally the legislative approach recommended. The Act would be a generic approach not limited to asbestos which could function for a range of occupational diseases. This would relate to the types of diseases, the provision of benefits, interaction between Federal and State Programs, and financing of the fund. The proposed Act would provide that this remedy was the exclusive remedy for those injured by the occupational disease. The Act would provide for Implementing Resolutions for the different occupational diseases and these resolutions would provide for a limited life of the resolution and that the resolution could be terminated if the pay-out exceeded available funds absent enacting additional authorizations.

It was suggested that if the existing system of tort liability is not changed that there will be bankruptcies within this industry. There may even be bankruptcies by the insurance carriers, as there now are 400 to 500 new cases being litigated monthly. It was noted that solutions to this problem were complex, and that if there is no solution many asbestos products manufacturers may go out of business. The Coalition at this time requests input from any interested party and that when a draft of the legislation is available, the Institute and its Members might help with constructive criticism of the proposed Act. Now is the time to discuss the plan, and as nothing is now cast in concrete, this is the best time for input. It was stated that the Coalition should have the language ready in the next month or so and would hope to have copies ready for the Institute and other interested parties at that time. They would hope to have the proposed Act in the legislative hopper by late 1982.

The Coalition's proposals were opened for questions and discussion. In answer to a question on cooperation with the Coalition, Mr. Pullen noted that the Coalition would welcome applications for Membership in the Coalition from interested parties. Questions were asked on financing the fund and it was noted that assessments would be made on a formula based on each manufacturer's defendant settlements and judgements and on the number of pending lawsuits.

Mr. Pullen noted that it was possible that his company (Johns-Manville) might end up being assessed a higher proportion of the costs of the fund, but that such a program would compensate those funding it with injured parties giving up tort rights. The efficiency of such a program would be that up to 85% of the costs now consumed in tort litigation could be eliminated. He noted that currently about 22% of cases go to verdict, and about 65% have been defendant verdicts. As some other than Johns-Manville cases have had 85% defendant verdicts, Johns-Manville may end up paying a higher percentage fee than others. It was noted that one defendant had won 16 out of 18 cases, and that the process of settlement has increased litigation. Some defendants may reappraise their litigation strategy and prefer going to verdict rather than settling.

It was noted that Dr. Selikoff had predicted 10,000 excess lung cancer deaths per year from asbestos exposure along with 2,500 asbestosis cases and 2,000 to 3,000 mesothelioma cases. While most observers believe Dr. Selikoff's projections are too high, this is an indicator of the scope of possible litigation. One party questioned if an alleged victim of asbestos exposure could readily make his claim through the intended compensation fund, wouldn't this open even more claims than tort litigation. In response, it was noted that some observers feel the "jackpot" settlement of tort litigation is more attractive to the alleged victims.

With this open discussion concluded, Mr. Armstrong, Chairman of the Institute's Health and Environmental Affairs Committee, suggested that Mr. Pullen's and Mr. Ross's presentation had given the Members a broader perspective on the issues, and he asked for more participation of the Members in the work of his committee. It was stated that some Members may wish to participate as individual Members of the Coalition, and that the Institute wished the Coalition to maintain liaison with the Institute through its Health and Environmental Affairs Committee. It was asked that the Coalition place the Institute on its mailing list, and that the Institute would forward data on to its Members. Mr. Pullen and Mr. Ross projected that the draft of the proposed new legislation would be available in two or three weeks, and that a draft would be sent to

the Institute at that time. In response to a question, it was noted that there was no sponsor for such proposed legislation at this time.

The President thanked Mr. Pullen and Mr. Ross for their efforts on this presentation of position by the Asbestos Compensation Coalition.

Upon motion duly made, seconded and unanimously passed, it was:

RESOLVED: To thank Mr. Pullen and Mr. Ross of the Asbestos Compensation Coalition for their presentation at this meeting.

FEE FORMULA COMMITTEE (PART 2)

Earlier in the meeting, the Members discussed a proposed increase in the annual fee with a change in the fee formula. It was moved that this item be tabled until after presentations by the Health and Environmental Affairs Committee and members of the Asbestos Compensation Coalition. The President called for additional discussion on this agenda item.

The Board of Directors had voted to increase the annual fee by a change in the fee formula as follows:

Active Member: Basic Fee Increase from \$1,150 to \$1,300,
with no change in the category assessment

Regional Member with Active Member rights: Same fee increase
as for Active Member

Regional Member (Regular) Increase from \$1,450 to \$1,600

Regional Member (Association) Increase from \$2,400 to \$2,600

Licensee: Increase from \$550 to \$600

As indicated earlier, the Board wished to establish a "reserve" with the additional fee payments to plan for that time when additional monies may have to be spent on consultants or other costs to help solve problems in the waste disposal area, and other areas of environmental concern. Such reserves could only be built to a certain point, and if funds were not expended the reserve could be closed and monies made available for general purposes—in effect reducing the fees. Concern was expressed on creation of such a reserve when the Institute had been generating an excess of income over expenses for the past several years.

Upon motion duly made, seconded and passed with ten Members in favor and five Members opposed, it was:

RESOLVED: To adopt the following fee formula for 1982-83: Active Members and Regionals with Active Member rights: Basic Fee \$1,300; Category Fee \$700; Regional Member (Regular): Fee \$1,600; Regional Member (Association): Fee \$2,600; Licensee: Fee: \$600.

his suggestions for more participation prior to next year's meeting.

The President thanked the Chairman for his work on this year's Tournament, the presentation of awards, and his suggestions for increased participation in the golfing.

Upon motion duly made, seconded and unanimously passed, it was:

RESOLVED: To accept the report of the Golf
Tournament Committee as read.

CREDIT REPORTING SERVICE

The Board of Directors considered a suggestion for a credit reporting service at its earlier meeting. After discussion at the Board meeting, it was recommended that Members individually list the individuals at their companies who should be contacted for credit information. This list would include name, address and telephone number, and those submitting this information would have access to the Institute compiled list. The Board asked that this subject be an agenda item at the Membership Meeting.

Mr. Comins was asked to present background on this concept. He indicated that since Institute Members dealt with the same customers and were aware of the credit capabilities of these parties, that it would be advantageous to those extending credit to have access to this information. The idea of a service such as that provided Members of MEMA or CFS was discussed. The original suggestion was for the Institute to set up a credit reporting system for its Members similar to the MEMA and CFS plans. Some possible shortcomings of such a plan were noted should the plan send out information on a customer which turned out to be incorrect. One party asked what was wrong with Dun & Bradstreet and it was indicated that was a good service but when someone is going under, it is usually too late with the information.

The Members generally concurred in an exchange of information on who should be contacted in their organizations for credit information. This would be done with a filing of information with the Institute as to who should be contacted for credit information giving name, address and telephone number. The Institute would ask for this information and would then distribute a "master list" to those who provided the information. The Institute Office was instructed to review this with Legal Counsel before proceeding

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There being no additional business brought to the attention of the Membership, upon motion duly made, seconded and unanimously passed, it was:

RESOLVED: To Adjourn

Adjourned at 9:40 AM

E. W. Drislane
Secretary