G. K. Brewin　　April 14, 1960　　Mr. D. K. Erskine

Cleveland 14

EUSTON LEAD

Attached is a memorandum summarizing the historical sequence of events and accounting entries for the Euston Lead dispostion. It was compiled from various sources and represents the most accurate record I have been able to develop.

Parts A, B, and C of this memo are prepared with the Revenue Agent in mind and could be shown to him to explain the story. Part D is for our internal use and is intended to form the basis for our own discussions.

Mr. McRae was aware that the transaction was not fully completed in 1958 and I propose to raise this point with the new agent at a convenient moment.

I should appreciate your review of the suggested procedures and of the historical narrative in case you wish to treat the matter differently or otherwise improve the story.

When we have recorded the new dispostion we should find that we will almost exactly recover our present net book value of about $43,000 (depending on depreciation).

G. K. BREWIN
Tax Department

GKB:mlw
Attch.

Trustees petition
in Bankruptcy ct.
that property never passed
was upheld by judge
(Ind. Dist. Ct.)
& compromise was
ordered & agreed to
under which Glid.
sigd. release & Trustee
& Dumont quit-
claimed any rts. to
the prop.

C. K. Brevin April 13, 1960 MEMORANDUM

Cleveland 14, Ohio

EUSTON LEAD TRANSACTION

A. HISTORICAL SEQUENCE OF EVENTS

Under a sales agreement, dated March 3, 1958, Glidden agreed to sell the entire assets of Scranton Division No. 28 to Dumont Airplane and Marine Instruments, Inc. for the consideration of $75,000 plus the value of inventory as determined at date of transfer (April 10, 1958). Glidden received a check as down payment for $10,000 which was credited to Misc. Profit and Loss and was subsequently included as a miscellaneous income item on our 1958 tax return. The balance was due and payable on or before April 10, 1958.

The escrow instructions, dated March 31, 1958, provided that if the full purchase price was not paid before April 10, 1958, the deed and bill of sale (for inventory) would be returned by the escrow agent to Glidden, since time was of the essence of the contract.

By agreement on April 10 and April 16, 1958, the escrow was extended to April 18, at which time it expired.

On May 7, 1958, Glidden formally notified Dumont that it was in breach of its agreement as of April 19 and had forfeited its deposit.

On June 9, 1958, Glidden and Dumont entered into an Amendatory Agreement for the sale of the fixed assets at the following consideration: deposit $5,000 (paid by check) and two promissory notes for $75,000 (covering the fixed assets) and $26,293 (covering inventory). The notes were to be secured by a mortgage on the real estate and by a mortgage bond.

Shortly thereafter Dumont entered into possession of the plant and presumably commenced operations.

On June 13, 1958, the Union Commerce Bank advised Glidden that the $5,000 check was dishonored, at which time Glidden debited Misc. Accounts Receivable and credited Misc. Profit and Loss for this amount, which subsequently appeared as a miscellaneous income item on our 1958 tax return.

During this time, and in view of the breach of contract by Dumont in presenting a worthless check, Glidden retained the title deed. Consequently, the title deed was never recorded for transfer, the title did not pass and the assets remained in the ownership of Glidden.

At the time of our 1958 fiscal closing the legal nature of this transaction was under consideration by our legal department, and it was not apparent that it should be treated for accounting or tax purposes on any basis other than the amended agreement of June 9th. We, therefore, recorded the disposition of the fixed assets under JV8 (August 31, 1958) and showed a net gain of $30,690 on Schedule D of our tax return.

On December 29, 1958, notice was issued to creditors to file proof of claim in bankruptcy of Dumont.

On February 12, 1959, Glidden filed claim in bankruptcy for $110,146.64 as damages for breach of contract of June 9, 1958, comprising: dishonored check $5,000, promissory notes of $75,000 and $26,293, plus balance of $3,853.64 miscellaneous items.

In the interim, Dumont ceased operations and went out of possession and from August 1959, Glidden, to protect its property, re-entered possession through a caretaker and incurred various maintenance expenses and real estate taxes.

On December 17, 1959, Glidden received $3,991.52 from Dumont representing certain operating proceeds due to Glidden and in no way connected with the sale or with the bankruptcy proceedings. This amount is currently carried in a Cash Clearance account and will be credited to Misc. Profit and Loss during F.Y.E. 8-31-60.

On December 15, 1959 the real property and machinery and equipment were sold at public auction to W.J. Notarianni and others. Title to the personalty passed on December 15, to the realty on February 15, 1960. As of the later date, the transfer was completed and payment was received in cash. Accounting entries to record the property dispostion will be made during F.Y.E. 8-31-60.

Glidden is currently amending its claim in bankruptcy to reduce the claimed damages for breach of contract by the amount of the proceeds from the December 15 auction sale.

B. ANALYSIS OF THE TRANSACTION

(1) It is clear that there was no completed sale and no transfer of title to the property as the result of either the contract of March 3, 1958 or the contract of June 9, 1958.

(2) Our tax return for F.Y.E. 8-31-58 (particularly Schedule D) did not represent the true state of affairs as subsequently revealed.

(3) The property remained in Glidden's ownership at all times until the transfer dates of December 15, 1959 and February 15, 1960. On this point should be noted: Glidden's attempts to safeguard the property after Dumont went out of possession, Glidden's payments of real property tax and the recognition by the Bankruptcy Court that this property was in no way part of the assets of Dumont available for distribution and was absolutely in the ownership of Glidden.

(4) The handling of the cash payment of $10,000 and the dishonored check of $5,000 as Misc. Profit and Loss items included in 1958 income, further illustrates that no sale took place.

C. ACCOUNTING ENTRIES RECORDED

Date	G.A.	Entry	Debit	Credit
5/31/58	54409	Cash Clearance	$ 10,000.00	
		Scranton #28 (Misc. P. & L.)		$ 10,000.00
		Breach of Contract Damages		
6/ 9/58	61502	Accounts Receivable	26,293.00	
		Scranton #28		26,293.00
		Rec. of note for inventory & supplies		
6/ 9/58	61743	Accounts Receivable	75,000.00	
		Unfinished Construction		75,000.00
		Rec. of note for prop., plt. & eqpt.		
6/ 9/58	62585	Accounts Receivable	5,000.00	
		Scranton #28 (Misc. P. & L.)		5,000.00
		Breach of Contract Damages		
8/31/58	J.V.8	Depreciation Reserve	418,435.00	
		Unfinished Construction	75,000.00	
		Prop., Plt. & Eqpt.		462,745.00
		Misc. P. & L. - Cap. Gain		30,690.00
		To record sale of Buston Lead Div.		
7/21/59	P.I.R. 7318	Accounts Receivable	1,278.50	
		Cash Clearance		1,278.50
		R.E. Tax payment quarterly		
8/31/59	83523	Accounts Receivable	104.88	
		Accounts Payable		104.88
		Caretaker services for August		

Misc. Accounts Receivable - Dumont Credit Balance at 8-31-59 — $107,676.38

Tax Payments and Maintenance Expenses during F.Y.E. 8-31-60:-

9/24/59	91561	R.E. Tax	1,278.50
9/24/59	91316		89.58
10/8/59	100610		100.00
	101235		90.00
	101236		928.35
	102802		343.84
	103375		13.29
11/5/59	110250		115.34
	111147		30.00
1/7/60	CM1		(343.84)

Total Misc. Accounts Receivable - Dumont 3/31/60 — $110,321.44

GKE:nlw

D. RECOMMENDED HANDLING

(1) We have taken into Misc. P & L in 1958 the cash receipt of $10,000 and the dishonored check for $5,000. These now represent breach of contract damages and are properly recorded. The $5,000 amount will be adjusted by our Accounts Receivable credit when charging off the bad debt.

(2) Journal Voucher #8 of August 31, 1958 and G.A. 61743 of June 9, 1958 should be reversed by the following entries:

	Debit	Credit
Misc. P & L	$ 30,690	
Prop., Plt. & Eqpt.	462,745	
Misc. Accounts Receivable - Dumont		$ 75,000
Depreciation Reserve		418,435

(3) Additional Depreciation should be set up for one-half year in 1958, all of 1959, and one-half year in 1960.

(4) Voucher should be prepared to record the ultimate sale in F.Y.E. 8-31-60.

(5) Misc. Profit and Loss for F.Y.E. 8-31-60 should be credited with $3,991.52 for the miscellaneous receipts now being held in Cash Clearance.

(6) The taxes and miscellaneous expenses for the current fiscal year listed above and totalling $2,645.06 should be reversed out of Accounts Receivable and charged directly to the expense accounts involved.

(7) The same procedure as in (6) should be adopted for the tax and expense items of $1,278.50 and $104.88, totalling $1,383.38, recorded 7/21/59 and 8/31/59.

(8) The resulting Misc. Accounts Receivable - Dumont debit balance of $31,293 should be charged to Bad Debts (but query: what division as Headquarters could not absorb this amount?).

(9) Any subsequent proceeds of the bankruptcy proceedings should be taken as Bad Debt recoveries.

CK:[illegible]

12/29/58 - Notice to Creditors to file proof of claim
2/12/59 Filed claim in Bkrptcy. $110,146.64
6/13/59 - Notice from Va. Comm. Bk. that ch. dishonored

12/17/59 3,991.52 net proceeds of operations of Eastern Road Div
— not connected w/ sale of assets - [illegible] Bank for
the deposit

Apr. 1960 Amend. Claim in Bkrcy to ~~$[illegible]~~ 110,146.64
Less proceeds of later sale (48,423.80)
61,722.84
[illegible] Bk of R. & not on bal of proceeds

12/15/59 Public Auction sale of Rd., M.E. & W.J.
Notarianni ~~$[illegible]~~ ~~[illegible]~~ $35,000
Other Purchasers of other
M.E. & auction / total proceeds 16,929.50
Tot. Proceeds $51,929.50

Xp. Sale - R.E. Commis 1750
~~R.E. [illegible] other Xpnses~~ 852.76 (2,602.76)
xp. Sale - M. - Commission 846.48
other xps. 4900.74 (5,747.22)

Title transfd. P.P. on 12/15/59
R.E. on 2/15/60
Fire in 1/1/59 ~~of [illegible] transfd~~ (risk of loss on buyer)

Prop. Ass. & Gdwill $75,000 — Guarant. as per valuat.

3/3/58 Sales Agree. Gl. & ~~Dumont~~ — prop. date/transf.
15 4/10/58 (~~[illegible]~~5) — K. Isab. entire lead payment
his.

Depos. $10,000 bal. payable on date/transf.
Guarant pay. on d/transf.

3/31/58 Closg. stat.: ~~Assets 75,000 less to [illegible] pd. & docu. stamps & Guarant. $215,146 = tot. bal due~~

T.R. Comm.		75,000
Fed. Stamps	30.75	
State "	360.72	
Commission	6,000	
Pd. d.p.	10,000	16,391.47
Due on Fix. Ass.		58,608.53
Guarant.		215,146
Tot. Bal due		273,754.53

3/31/58 — Escrow conditional on paymt. Bal. due on or before 4/10/58
— If not pd. bef. that date deed & bill of sale redeliv'd to Gl.

4/10/58 Extens to 4/16/58
4/16 Extens to 4/18 ——— Agree & Escrow Expired 4/18
6/9 Amendatory Agree. — for $10,000 dep. already pd.
plus 5,000 addit. deposit (ck. dishonored)
plus promissory note $75,000
" " $26,293
" Mtge. on Le. to secure the note
" Mtge. Bond securing notes
Transf. date to be date of agree. 6/9 (#4)

} for Prop. Ass. & Gdwill & Guarant.

5/7 WCL Tel. to Dumont → notice we consid. agree. breached
as of 4/19

{ Eventually on 6/9 we recd. $5,000 + notes & Mtge. & turned
over deed to Dumont — lead never recorded & retd to Gl.

Pennant A/R

	C.P.		Dr	Dr. Bal	Tax	
1960	91316		89.58			
9/24	91561		1278.50			
10/8	100610		100			
	101235		90			
	101236		928.35			
	102802	[illegible]	343.84			
	103375		13.29			
11/9	110250		115.34			
	111147		30	110,665.28		
1/7	CD1	ck. retd. unused	Cr. (343.84)	110,321.44	(~~57,367.75~~)	1960

} Charge off to Partic. Sp. Accts ?

① Reverse JV 8 - Rec. CA. 61743 for $75,000 (7673) – 1958

② Set up addit deprec. for 58, 59 & 60%

③ Charge off Bad Debt of A/R ~~$110,321.44~~ 35,321.44 (What Div.? & to partic. Sp. Accts.?) 1960

④ Make new JV. for new sale → (18,367)

⑤ Make entry to Misc P&L 1960 for $3,991.54 other recs.

Other bcs. from Pennant in Cash Clearance
$3,900

Pennant Sale – Title Transf. 12/15/59 in Pl. – 2/15/60 in L.I.

Land Bldg. & M&E to Notarianni		35000		
Other Purchasers of M&E		16929.50	51929.50	
Exp. of Sale: Commiss.	1750			
Pl. "	846.48			
[illegible]	[illegible]			
Other Exp.	4900.74			(8349.98)
Net Proceeds – (Book)				43579.52

Tax JV

				Tax	
Vafim. Contr.	51929.50 5,922.22	46007.28			
Prop (Net additions)			44310 ?		
Cap. Gain			1697 ?	424 ? –	1960