

IN THE SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA

RONALD K. BLATT)
AND HEIDI BLATT,)
 Plaintiffs) NO. RG09-445045
)
vs.)
)
A.J. RAISCH PAVING CO.,)
ET AL.,)
 Defendants.)
)

DEPOSITION OF CARMELO SBEZZI

FRIDAY, OCTOBER 16, 2009

10:03 A.M. - 12:45 P.M.

RYAN, RYAN & DELUCA

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STAMFORD, CONNECTICUT

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Registered Professional Reporter

Connecticut License #343

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DOCUMENTS REQUESTED:

(None)

QUESTIONS WITNESS INSTRUCTED NOT TO ANSWER:

(None)

1 CARMELO SBEZZI, Deponent, having
2 first been duly sworn by the Notary Public,
3 was examined and testified as follows:

4 EXAMINATION

5 BY MR. BOSL:

6 Q. Good morning, Sir. If you'd
7 state your name for the record.

8 A. Carmelo Sbezzi.

9 Q. If you give us your address,
10 please?

11 A. I live six months in Florida.
12 Six months in New York. Which would you
13 want or both?

14 Q. One or the other is fine with
15 me?

16 A. My Florida address is 7792 Quida
17 Drive, West Palm Beach, Florida, 33411.

18 MR. BOSL: Before we get going,
19 just as housekeeping, I'll attach as
20 Plaintiffs' A the Notice of Taking
21 Deposition and Request for Production
22 of Documents as J.A. Sexauer
23 Manufacturing Company, Inc., signed on
24 August 5, 2009.

25 And as Plaintiffs' B, the

1 October 1st, 2009 letter to all
2 counsel from our office rescheduling
3 the deposition of J.A. Sexauer's
4 custodian of records, person most
5 knowledgeable, to October 16, 2009.

6 (Sbezzi Exhibits A and B, Marked.)

7 MR. BOSL: And, Counsel, you
8 agree that even though we're in
9 Connecticut this proceeding is under
10 California law?

11 MS. PORTILLO: Yes.

12 BY MR. BOSL:

13 Q. Sir, we last had a chance to
14 speak in 2006.

15 Have you given any depositions
16 since that time, before today?

17 A. No.

18 Q. And have you testified at trial
19 at all since 2006?

20 A. No.

21 Q. What is your current
22 relationship with J.A. Sexauer in terms of
23 employment consulting?

24 A. I'm retired.

25 Q. Are you being paid for your time

1 today?

2 A. Yes.

3 Q. How much?

4 A. \$150 an hour.

5 Q. When were you first contacted
6 about giving a deposition today?

7 A. Sometime in the past month.

8 Q. And what have you reviewed prior
9 to testifying today, if anything?

10 A. I've reviewed my deposition in
11 2006.

12 Q. And have you reviewed any other
13 documents?

14 A. I've seen other documents. I
15 don't know if I reviewed -- did I read them
16 all?

17 Q. Yes.

18 Well, what documents have you
19 looked at for this case?

20 MS. PORTILLO: Well, it's
21 overbroad, vague. Do you mean the
22 deposition? What do you mean?

23 BY MR. BOSL:

24 Q. Well, we can start with, you
25 know, since being contacted about giving a

1 deposition in this case, what documents have
2 you reviewed with regards to the case?

3 A. By "review," do you mean read
4 thoroughly or look at?

5 Q. Look at is fine. Either one.

6 A. Deposition of Mr. Blatt, four
7 different dates. I don't recall the dates.

8 Q. Anything else?

9 A. Not that I recall.

10 MS. PORTILLO: I think, just to
11 help remind him. I know that maybe
12 you reviewed some of these invoices
13 that we've produced in a discovery,
14 that he's reviewed for purposes of
15 this case.

16 MR. BOSL: Thank you.

17 BY MR. BOSL:

18 Q. And what was your purpose in
19 reviewing Mr. Blatt's deposition?

20 A. Just to be familiar with what he
21 said.

22 Q. And I'll represent to you that
23 Mr. Blatt's deposition was longer than four
24 days.

25 Were the selections that you

1 were provided chosen by counsel or somebody
2 other than yourself?

3 A. Yes, it was.

4 Q. Now -- and I'm not going to get
5 into the substance of this right now. But
6 you also prepared a Declaration for this
7 case. Do you recall that?

8 A. Yes.

9 Q. We may talk a little bit about
10 that later.

11 For the moment, have you been
12 involved in any search for documents in this
13 case?

14 A. What do you mean by "involve"?

15 Q. Well, in any way have you
16 actually looked for any documents in this
17 case?

18 A. I inquired about documents, yes.

19 Q. Who did you inquire of?

20 A. Present Sexauer employee.

21 Q. Who is that?

22 A. Her name is Anne Latore.

23 Q. And what is her position in J.A.
24 Sexauer as you understand it?

25 A. Manager of sales services.

1 Q. Do you know how long she's been
2 with the company?

3 A. I don't know her start date, but
4 she worked for me, and she's been there over
5 twenty-five years.

6 Q. When did you speak with
7 Ms. Latore?

8 MS. PORTILLO: Well, let me just
9 object as, you know, overbroad.

10 Are you asking the first time or
11 how many times?

12 BY MR. BOSL:

13 Q. The first time that you spoke to
14 her, yes.

15 A. I don't recall the date.

16 Q. Can you estimate how many weeks
17 or months ago it was?

18 A. In the past two months.

19 Q. And how many times have you
20 spoken to her about documents?

21 A. Maybe twice.

22 Q. Can you recall when the other
23 time was?

24 A. No, I don't.

25 Q. What did you ask Ms. Latore to

1 look for?

2 A. I asked her who was presently
3 selling -- what Sexauer salesman is
4 presently selling in the territory where San
5 Jose School District is.

6 Q. And was she able to give you a
7 name?

8 A. Yes, she gave me the name.

9 Q. And who is that?

10 A. Jack.

11 MS. PORTILLO: Jack West.

12 A. Jack West.

13 Q. Do you know how long Mr. West
14 has been a salesman for J.A. Sexauer?

15 A. I believe his starting date was
16 February of '08 to present.

17 Q. Prior to your deposition today,
18 have you spoken with anyone else from J.A.
19 Sexauer other than Ms. Latore?

20 A. No.

21 Q. How many times have you spoken
22 with counsel about your deposition, prior to
23 starting up today?

24 MS. PORTILLO: If you recall.

25 A. I don't recall the number of

1 times.

2 Q. Did you meet with counsel this
3 morning?

4 A. Yes.

5 Q. And have you met with counsel or
6 talked to counsel about this deposition in
7 the last week?

8 A. Yes.

9 Q. How many times?

10 A. One other time.

11 Q. If you could estimate, just kind
12 of a total number, about how long you spent
13 talking to counsel about your deposition
14 today.

15 A. Too long. Scratch it from the
16 record.

17 MS. PORTILLO: I think he's just
18 asking your best estimate. If you
19 could total up the amount of time
20 we've spent talking about it, that's
21 okay. If you can't, you can't. See
22 if you can.

23 A. I would guesstimate eight to ten
24 hours, and I will bill the same.

25 Q. Have you asked Ms. Latore

1 anything other than to get you the name of
2 the current salesman in the San Jose area?

3 A. Yes, I did.

4 Q. What did you ask her?

5 A. I asked her if she had previous
6 records to who worked the territory.

7 Q. What did she say?

8 A. There are no records available.

9 Q. Did she tell you why there
10 aren't any records?

11 A. She said they didn't keep any
12 records.

13 Q. Anything else that you asked
14 Ms. Latore for in this case?

15 A. No.

16 Q. Now, I've been handed an updated
17 sales summary for sales -- well --

18 MR. BOSL: I'll mark that as
19 Exhibit C. It has approximately --

20 THE WITNESS: A lot of pages.
21 They're not in numerical order.

22 (Sbezzi Exhibit C, Marked.)

23 BY MR. BOSL:

24 Q. Right. There's several sections
25 to it with multiple pages each. But it

1 appears that the beginning -- the first page
2 has a title "SJCUST_PEARSE23." And the
3 following lists contain the same prefix with
4 numbers ending in Numbers 25, 26, 27, and a
5 couple others.

6 Sir, I understand you had a
7 chance to look at this before the
8 deposition?

9 A. This version, yes.

10 Q. Do you know who at J.A. Sexauer
11 printed this out?

12 A. No. I don't believe this came
13 from J.A. Sexauer. It came from the
14 parent company -- Interline.

15 Q. Do you know who at Interline
16 printed this out?

17 MS. PORTILLO: If you know.

18 A. I believe it's Henry Hudson.

19 Q. Do you have an understanding as
20 to what Mr. Hudson's position is at
21 Interline?

22 A. No, I don't know his title.

23 Q. Do you know what department he
24 works in or what area?

25 A. I would imagine IT area.

1 Q. Interline is headquartered in
2 Florida; is that right?

3 A. Jacksonville.

4 Q. And I guess I should ask you,
5 have you spoken with anyone at Interline
6 about this case?

7 A. No.

8 Q. Have you had any conversations
9 with Mr. Hudson about this case?

10 A. Just to request the report.

11 Q. When did you have that
12 conversation with him?

13 A. Approximately a month ago.

14 Q. And what specifically did you
15 ask him?

16 A. If we were able to get a
17 printout of sales to this account.

18 Q. And by "this account," you mean
19 the San Jose Unified School District?

20 A. Yes, I do.

21 Q. Did you give him any years you
22 wanted him to look for?

23 A. No.

24 Q. Do you have an understanding of
25 what the information in this printout is

1 based on?

2 A. I don't understand your
3 question.

4 Q. Where did the information that
5 went into this printout -- let me strike
6 that.

7 Is this printout a summary of
8 other documents?

9 MS. PORTILLO: Calls for
10 speculation. Lacks foundation.

11 Q. Go ahead. You can answer.

12 MS. PORTILLO: If you know.

13 A. It's a summary of tapes that
14 were made from sales records.

15 Q. And do you have an understanding
16 as to when those tapes were made?

17 A. It was my understanding the
18 tapes were made 1983 forward.

19 Q. Let me see if I understand that.
20 The tapes were made of sales
21 records -- the sales records themselves
22 started in 1983?

23 A. The tapes.

24 Q. And when the tapes were made,
25 what sales records were available to be put

1 on the tapes?

2 A. I don't know that.

3 Q. Do you know how far back the
4 sales records went?

5 MS. PORTILLO: Lacks foundation.
6 Calls for speculation.

7 A. Not that I know.

8 Q. I think you have a copy of
9 Exhibit C in front of you. Let me ask you
10 what -- if you can just describe for me -- I
11 mean, some of this is self-explanatory, but
12 some of it may not be.

13 The first column on the left is
14 "Customer#." The number "4391003."

15 Is it your understanding that's
16 the customer number for San Jose Unified
17 School District?

18 A. Yes.

19 Q. And the next column "SLSNAM."
20 Is that the name of the J.A. Sexauer
21 salesman that called on -- well, rather than
22 assuming facts.

23 What is that name listed under
24 that column?

25 A. That's the Sexauer salesman.

1 Q. Is that the salesman responsible
2 for that specific account?

3 A. Yes.

4 Q. In Sexauer's practice, is an
5 account only called on by one salesman?

6 A. Yes.

7 Q. And that has been the practice
8 as far as back as you've been with the
9 company?

10 A. That's correct.

11 Q. Do you know Jack Cleaton?

12 A. Do I know him personally?

13 Q. Yes.

14 A. I've met him.

15 Q. Is he still with the company?

16 A. No.

17 Q. When was he with Sexauer?

18 A. I don't have his dates.

19 Q. When did you meet him?

20 A. When he was employed with
21 Sexauer. I don't recall the date.

22 Q. Do you recall the decade?

23 A. In the eighties.

24 Q. The next column is "Order#."
25 And it looks like only a few of the entries

1 here have order numbers. Do you know why
2 that is?

3 A. That's the customer order
4 number, what they use to purchase, and there
5 doesn't need to be an order number next to
6 every line item. I would presume that when
7 there's an order number and then there's
8 none following it, all those items could
9 have been ordered under that order number.

10 Q. The next column "INVC DT." What
11 does that stand for?

12 A. I would say the invoice date.

13 Q. The entries under that column
14 don't appear to be in a standard date
15 format.

16 Do you understand what the date
17 entries under that column mean?

18 A. When you say "standard," they're
19 putting the year first and the month and
20 date following. I guess that's not
21 standard. That was deceiving to me too.

22 Q. Okay. Thank you.

23 The next column is "Item#."
24 Does the number in that column correspond
25 with the number in J.A. Sexauer's

1 catalogue?

2 A. That's correct. That's the J.A.
3 Sexauer catalogue number for that item.

4 Q. And the next column is
5 "Quantity," and the next column is
6 "Description" of the product order. Is that
7 correct?

8 A. That seems correct.

9 MR. BOSL: Let me just ask. Do
10 I need to go through and lay the
11 foundation of this as a business
12 record, or can we stip that this
13 printout is a business record of J.A.
14 Sexauer?

15 MS. PORTILLO: Yes, we can
16 stipulate to that.

17 BY MR. BOSL:

18 Q. Is that your understanding as
19 well, that this is a business record of J.A.
20 Sexauer?

21 MS. PORTILLO: Let me clarify.
22 This printout came from Interline
23 brands, so that distinction needs to
24 be made, but it reflects sales of J.A.
25 Sexauer products.

1 MR. BOSL: Will you stipulate
2 it's a business record of Interline
3 brands?

4 MR. McCAGHEY: And J.A.
5 Sexauer.

6 MS. PORTILLO: Yes, they own
7 that.

8 MR. BOSL: I'm trying to
9 short-circuit that.

10 MS. PORTILLO: For clarity sake.

11 MR. BOSL: That's fine.

12 BY MR. BOSL:

13 Q. Let me ask you -- I kind of
14 asked this before, and let me ask it a
15 different way, Sir.

16 You'd agree with me that the
17 first date entry in this printout is
18 February 9th, 1983?

19 A. Yes.

20 Q. Do you have any understanding
21 why there are no entries prior to February
22 9th, 1983?

23 MS. PORTILLO: Calls for
24 speculation.

25 A. No.

1 Q. You have no information one way
2 or the other -- well, do you have any
3 information one way or another whether J.A.
4 Sexauer sold products to the San Jose
5 Unified School District prior to February
6 9th, 1983?

7 A. No, I don't.

8 Q. So if somebody said that the
9 school district did buy products prior to
10 February 9, 1983, just the fact of this
11 printout wouldn't give you any reason to
12 dispute that information; is that right?

13 MS. PORTILLO: I'll object to
14 improper hypothetical. Calls for
15 speculation. Compound. Lacking
16 foundation.

17 Q. Go ahead, Sir.

18 A. Would you ask that again, Sir,
19 please?

20 Q. Yes.

21 The fact that there are no sales
22 on this invoice prior to February 9, 1983,
23 doesn't in itself give you a reason to
24 dispute if somebody were to say that they
25 did purchase from J.A. Sexauer or prior to

1 that date?

2 A. No, it doesn't.

3 MS. PORTILLO: Same objections.

4 Assumes facts.

5 Q. Now, you and I have spoken in
6 the past about the fact J.A. Sexauer
7 employed commission salesmen in various
8 regions throughout the country; is that
9 correct?

10 A. That's correct.

11 Q. How many salesmen did J.A.
12 Sexauer -- well, let me back up.

13 J.A. Sexauer employed commission
14 salesmen in the Bay Area; is that correct?

15 A. That's correct.

16 Q. What is the earliest date you
17 recall J.A. Sexauer employing commission
18 salesman in the San Francisco Bay Area?

19 A. The year I started, 1963.

20 Q. As far as you know, the
21 commissioned salesmen that were there in the
22 San Francisco Bay Area when you first
23 started up were not themselves just starting
24 in the Bay Area at that time, correct?

25 MS. PORTILLO: Calls for

1 speculation.

2 A. Not necessarily.

3 Q. When you began with J.A. Sexauer
4 in 1963, who were the salesmen in the San
5 Francisco Bay Area that you can recall?

6 A. I do not recall.

7 Q. What is the earliest salesman in
8 the San Francisco Bay Area that you can
9 recall?

10 A. My early years with Sexauer was
11 in purchasing, and therefore I was not
12 totally knowledgeable of which salesmen were
13 and which territory. I can't recall
14 what year.

15 Q. Do you recall who the first
16 salesman, that you remember, being aware
17 that they were from the San Francisco Bay
18 Area?

19 A. A man called Jack Heinen.

20 Q. Can you spell that last name?

21 A. H-e-i-n-e-n.

22 Q. Do you recall when you were
23 first aware that he was in the Bay Area,
24 even if you have to estimate by decade?

25 A. I would estimate that was

1 sometime in the seventies.

2 Q. And were there any other Sexauer
3 salesmen in the San Francisco Bay Area that
4 you recall from the 1970s?

5 A. I recall a man named Ernie
6 Kloepfel, K-l-o-e-p-f-e-l.

7 Q. Any others?

8 A. None that I recall.

9 Q. In the 1980s, can you recall any
10 of the J.A. Sexauer salesmen in the San
11 Francisco Bay Area?

12 A. In the eighties you're asking.

13 Q. Yes.

14 A. Jack Cleaton.

15 Q. Let me ask you, the salesmen
16 that are identified in Exhibit C, the
17 printout, those were all salesmen, Sexauer
18 salesman in the San Francisco Bay Area,
19 correct?

20 A. Yes, I would say so.

21 Q. Are there any names that you
22 recall that are not listed in the printout?

23 A. None that I recall.

24 Q. As I recall, the salesmen would
25 call on their various accounts and collect

1 orders, and then call those orders into
2 Sexauer headquarters; is that correct?

3 A. That's correct procedure.

4 Q. Who would invoice the customer?

5 A. By "who," do you mean what
6 individual?

7 Q. Did the salesmen fill out any
8 kind of invoice, or did that come from the
9 home office?

10 A. Home office.

11 Q. Did the salesmen keep any
12 records of what orders the customer was
13 placing?

14 A. I would imagine they all kept
15 their own records and made it easier for
16 them to resell when they called on that
17 account again. So I can't imagine a good
18 salesman not keeping his own records.

19 Q. Did Sexauer have any policy or
20 general practice with regard to the manner
21 in which salesmen kept records of their
22 customer sales?

23 A. No.

24 Q. Were those records ever, to your
25 knowledge, transmitted to the home office?

1 A. Not that I know of.

2 Q. Did customers ever submit
3 payment to the salesmen or through the home
4 office, as far as you know?

5 A. As far as I know, they were
6 billed by the home office and sent in their
7 payment to the home office.

8 Q. We spoke a little bit about this
9 before, I think.

10 What involvement did the
11 commission salesmen have in helping their
12 customers identify what their needs were?

13 A. That was part of the service
14 that the salesmen would give to the customer
15 to help identify proper products. The
16 plumbing industry has a huge amount of
17 products. There's no standardization, and
18 therefore, for example, a stem shuts a facet
19 on and off.

20 At one time we carried over 700
21 stems because everybody made a different
22 size and a different configuration, and
23 therefore if the salesmen could identify the
24 fixtures in a particular site, it would help
25 for reordering and getting the flow of

1 material into them, the proper material.

2 Q. Would salesmen ever go look at
3 the particular piece of equipment or fixture
4 that needed replacement parts and help the
5 customer identify what replacement parts
6 were needed?

7 MS. PORTILLO: I'll object as
8 vague and ambiguous and overly broad.
9 Are you asking just as a general
10 practice?

11 MR. BOSL: Yes.

12 A. Yes. A salesman would help do a
13 survey on site and help the customer know
14 that they had twenty facets from this
15 manufacturer and fifteen of this, and
16 therefore they should carry some inventory
17 to have quick replacement parts.

18 Q. How did -- well, did Sexauer
19 have any kind of program or training in any
20 way to teach the salesmen how to provide
21 this advice?

22 A. The regional manager responsible
23 for that particular salesman would do any
24 type of training needed to better service
25 the ultimate -- the ultimate goal was to

1 better service the customer.

2 Q. Did products manufacturers ever
3 provide any training to the salesmen in that
4 regard?

5 A. Not that I know of.

6 Q. Did the regional managers ever
7 receive any training or instruction from the
8 product manufacturers on replacing --
9 replacement parts and maintenance of their
10 equipment or other products?

11 A. Not that I know of.

12 Q. I guess what I'm getting at, how
13 did the regional managers know what to tell
14 the salesmen, as far as you know?

15 A. Usually the regional manager was
16 a previous salesman, and from his own
17 experience in the field, he passed his
18 knowledge on to the men that worked under
19 him.

20 Q. Do you recall the names of any
21 of the regional managers for the San
22 Francisco Bay Area?

23 A. Yes, I do.

24 Q. What are there names?

25 A. John Contos, C-o-n-t-o-s.

1 Q. Any others?

2 A. Not that I recall at this time.

3 Q. Do you remember what years
4 Mr. Contos was the regional manager in the
5 Bay Area?

6 A. Eighties and nineties.

7 Q. I want to ask you some questions
8 now about the late 1970s and thereafter when
9 Sexauer began asking some of the product
10 manufacturers about asbestos hazards.

11 As I recall, it's true that in
12 the late 1970s Sexauer began to contact some
13 of the product manufacturers of the product
14 it sold regarding asbestos; is that
15 correct?

16 A. That's correct.

17 Q. And as I recall your testimony,
18 you recall that the product manufacturers
19 told Sexauer that products contain
20 chrysotile asbestos and were encapsulated;
21 is that correct?

22 A. That's correct.

23 Q. Did Sexauer perform any
24 follow-up or independent investigation of
25 its own, beyond asking the manufacturers or

1 vendors?

2 A. Not that I know of.

3 Q. Did J.A. Sexauer talk to any
4 doctors about asbestos?

5 A. Not that I know of.

6 Q. Did J.A. Sexauer talk to any
7 industrial hygienist about asbestos?

8 A. Not that I know of.

9 Q. Did J.A. Sexauer have a company
10 industrial hygienist at any time?

11 A. No.

12 Q. Did J.A. Sexauer have a company
13 doctor at any time?

14 A. No. You mean employed by J.A.
15 Sexauer?

16 Q. That's correct.

17 A. No.

18 Q. Did J.A. Sexauer contract with
19 any doctors or industrial hygienist at any
20 time?

21 A. No.

22 Q. Did J.A. Sexauer have a
23 Workmen's Comp insurance carrier?

24 MS. PORTILLO: Well, just lacks
25 foundation. Calls for speculation.

1 Q. That you know of.

2 A. Not that I'm aware of.

3 Q. Do you know if J.A. Sexauer had
4 any Worker's Compensation insurance?

5 MS. PORTILLO: Objection.

6 Q. I'm sorry. That's a no?

7 A. That's a no. I couldn't know
8 everything about the company. I only ran
9 different parts of it.

10 Q. I guess my question is whether
11 or not you know. Did J.A. Sexauer ask its
12 Worker's Compensation insurance any
13 questions about asbestos at any time?

14 A. Not that I know of.

15 Q. Who within the company contacted
16 the various manufacturers or vendors about
17 asbestos in the late 1970s?

18 A. The purchasing department.

19 Q. And you were head of the
20 purchasing department at that time; is that
21 right?

22 A. I did not contact them. It was
23 Anthony Schiavo.

24 Q. Were you Anthony Schiavo's boss?

25 A. Yes, I was.

1 Q. Who did Anthony Schiavo contact?

2 MS. PORTILLO: Hold on. Just to
3 the extent that these questions have
4 been asked and answered in the
5 previous deposition in the Hogan case,
6 and we produced all of the contacts,
7 meaning the letters, and I'm just --
8 unsure if you're asking --

9 MR. BOSL: I don't recall the
10 letters being produced.

11 MS. PORTILLO: I'm not sure if
12 you're asking about, you know, how to
13 contact or what the contacts are. Can
14 you be more specific? It's vague.

15 MR. BOSL: Well, I mean, that's
16 the next question, I guess, but let me
17 back up.

18 BY MR. BOSL:

19 Q. How did Anthony Schiavo contact
20 the various manufacturers or vendors?

21 A. I would imagine he wrote them
22 letters.

23 Q. Did you ever see any of the
24 letters that he sent?

25 A. I saw the responses.

1 Q. And first of all, who did
2 Mr. Schiavo contact, in terms of which
3 companies?

4 A. The vendors that supplied us
5 with the material.

6 Q. Do you remember which of the
7 vendors?

8 A. Johns-Manville, Raybestos
9 Manhattan, Eureka Manufacturing, Garlock
10 Incorporated. I'm not sure about the
11 incorporated.

12 Q. Any other companies that you can
13 recall?

14 A. Not that I recall.

15 Q. Did Sexauer receive a response
16 from at least all four of those companies?

17 A. As far as I know, yes.

18 Q. I think we talked a minute ago
19 about your general understanding of what the
20 response was.

21 Did each of the four companies
22 respond, to your memory, that the product
23 contained chrysotile and was encapsulated?

24 A. Yes.

25 Q. And you saw the responses

1 yourself; is that right?

2 A. Yes.

3 Q. At the time that -- did you see
4 the response near or at the same time that
5 Sexauer received the response?

6 A. I believe so.

7 Q. At that time, what did you
8 understand "encapsulated" to mean?

9 MS. PORTILLO: Asked and
10 answered in previous deposition.

11 A. That the fiber isn't
12 encapsulated, meaning enclosed and not
13 floating freely in the air.

14 Q. Am I correct that at some point
15 employees in the Louisville facility -- in
16 the Sexauer Louisville facility inquired of
17 Sexauer about asbestos and the products that
18 they were handling?

19 A. They brought the subject up.

20 MS. PORTILLO: I'll make an
21 objection that these questions were
22 asked and answered in the Hogan case,
23 and stipulate we had an agreement that
24 we'd stipulate to those questions and
25 answers as well. If you need to lay a

1 foundation for the question, that's
2 fine.

3 MR. BOSL: That's what I'm
4 doing. I'm not going to belabor over
5 these points too long.

6 MS. PORTILLO: Okay. I wanted
7 to make sure.

8 BY MR. BOSL:

9 Q. And I'm sorry. When was it
10 again that they contacted the home office
11 about this issue?

12 A. I believe in the late seventies.

13 Q. Did Sexauer ever do any medical
14 screening of the employees at the Louisville
15 facility?

16 A. No.

17 Q. Are you aware of whether or not
18 Sexauer has ever received any Worker's
19 Compensation claims relating to asbestos
20 from any of its employees?

21 MS. PORTILLO: Lacks foundation.
22 Calls for the witness to speculate.
23 Beyond his scope of knowledge.

24 A. I'm not aware of it.

25 Q. If such a claim were made, who

1 within the company would you ask to find out
2 if that had happened?

3 MS. PORTILLO: Same objection.

4 A. May I hear your question again?

5 Q. It wasn't the clearest.

6 Who within Sexauer or Interline
7 would you ask to find out whether or not any
8 employee had ever brought an
9 asbestos-related Worker's Compensation
10 claim?

11 A. I have no idea who I would go to
12 at this time.

13 Q. Did Sexauer ever provide any
14 handling instructions to its customers about
15 its asbestos products?

16 MS. PORTILLO: Assumes facts.
17 Lacks foundation.

18 A. Not that I know of.

19 Q. Did Sexauer ever put any kind of
20 warning about asbestos in its catalogues?

21 MS. PORTILLO: Same
22 objections.

23 A. No.

24 MS. PORTILLO: And it's overly
25 broad and vague.

1 MR. BOSL: Before I move into a
2 couple other areas, why don't we take
3 a break, and I'll take a look at the
4 catalogues that you have here and go
5 from there.

6 MS. PORTILLO: Go off the
7 record.

8 (Recess taken from 11:02 a.m. to 11:10
9 a.m.)

10 MR. BOSL: Let's go back on the
11 record.

12 I spoke briefly on the break
13 with Counsel about several boxes of
14 catalogues that have been produced
15 today. Rather than attach all of the
16 catalogues to the deposition and try
17 and copy them all right now, the boxes
18 are labeled with the contents of the
19 various catalogues in each box.

20 BY MR. BOSL:

21 Q. So, Sir, if you'll indulge me,
22 I'm going to go through and just simply list
23 off which catalogues were produced today so
24 that we have a record of it. And then I
25 have a few questions I want to ask you about

1 some of the catalogues.

2 MR. BOSL: First box here, the
3 label says, "Sexauer Master Cats
4 (old). K addition 1977 to '78. 1978
5 to '79. 1980 customer edition. 1980
6 blue sheets to 10/14/81."

7 The next box says, "Old master
8 catalogues. 1981, customer edition.
9 1983, customer edition. 1980 new
10 items. 1981 internal edition. 1981
11 blue sheets."

12 Next box. "1995 Canada master
13 catalogue; 1999, U.S. new items; 1997,
14 U.S. new items (not in 1997). 1997
15 blue sheets. 1997 U.S. new items in
16 1997. 1964 edition K. 1978 to 79
17 customer addition. 1974 U.S. cat
18 special edition. 1971 U.S. cat 50th
19 anniversary."

20 Next box, "Old master
21 catalogues. 1987 internal edition
22 catalogue. 1987 blue sheets. 1987 to
23 '89 new items. 1989 blue sheets.
24 1989 internal edition catalogue. 1989
25 new item."

1 Next box. "Old master
2 catalogues, 1982 to '83 new items.
3 1983 internal edition. 1981 new
4 items. 1983 blue sheets. 1985 master
5 catalogue. 1985 customer edition.
6 1985 new items. And then K edition."

7 And the final box, "Old master
8 catalogues. 1992 blue sheets. 1990
9 new items. 1993 master catalogue 0-7.
10 1991 to '93 blue sheets. 1992 new
11 items." And then separated out with
12 the title "Canada, 1984 master. 1991
13 master and 1988 master."

14 And I'll simply request that
15 J.A. Sexauer and/or its counsel
16 maintain all of the catalogues
17 identified for this and future
18 litigation and make them available
19 upon request.

20 BY MR. BOSL:

21 Q. All right. Sir, with regards
22 to -- well, you're familiar with J.A.
23 Sexauer catalogues, are you not?

24 A. Yes, I am.

25 Q. Some of the catalogues I read

1 off had the title "blue sheets."

2 What does, "blue sheets," refer
3 to?

4 A. I'm not sure. If I could see
5 one, I might be able to answer.

6 MS. PORTILLO: I'll just make a
7 record that from what has already been
8 identified, you were reading the title
9 "blue sheets" off of the exterior
10 labels. Right?

11 MR. BOSL: That's right.

12 MS. PORTILLO: Of the boxes not
13 the catalogues?

14 MR. BOSL: Right.

15 BY MR. BOSL:

16 Q. Sir, this binder I have here
17 says, "blue sheets 485 and on - not in 85
18 catalogue."

19 Some of the pages are a little
20 stuck together.

21 Sir, I'm going to hand you this
22 binder. Sir, looking at that, does this
23 refresh your memory as to what blue sheets
24 are or referred to?

25 A. I don't recall ever hearing the

1 term.

2 Q. With regards to some of the
3 catalogues, some of them are listed as
4 internal and some of them are listed as
5 customer.

6 In general, what is your
7 understanding of the internal catalogue and
8 the customer catalogue?

9 A. Customer catalogue was a
10 loose-leaf binder where it could always add
11 pages to it, and did not have prices on it.
12 Internal would have a price sheet with it.

13 Q. Who used the internal catalogue?

14 A. People at the home office.

15 Q. Generally, what catalogue did
16 the salesmen use?

17 A. They carried similar to the
18 customers.

19 Q. With regards to some of the
20 labels on the outside of the box, it refers
21 to the "K edition."

22 What is your understanding of
23 what "K edition" means?

24 A. No particular meaning for the K.
25 Just designation.

1 Q. Is that a term that you're
2 familiar with J.A. Sexauer using with
3 regards to some of the catalogues?

4 A. I know there's a K edition, yes.

5 Q. And do you know what the K
6 edition was used for, as opposed to an
7 internal or customer catalogue?

8 A. No difference.

9 Q. Do you know who used the K
10 edition?

11 A. Not that I know.

12 MR. BOSL: And, Counsel, can we
13 have a stipulation that any of the
14 catalogues produced are Sexauer's
15 business records?

16 MS. PORTILLO: Yes.

17 BY MR. BOSL:

18 Q. Sir, I wanted to back up and ask
19 one other question. We talked about the
20 response you got regarding the asbestos
21 content of products that you sold.

22 Were you ever informed -- well,
23 have you ever heard the word "tremolite"?

24 A. Tremolite.

25 Q. Yes.

1 A. No, I have not.

2 Q. Have you ever heard from any
3 source that any of the products that
4 contained chrysotile that Sexauer sold were
5 contaminated with tremolite?

6 MS. PORTILLO: Lacks
7 foundation.

8 A. Not that I know of.

9 Q. Sir, as far back as 1964, did
10 Sexauer sell asbestos valve stem packing?

11 A. Yes, it did.

12 Q. What was the last or the latest
13 date that you can recall Sexauer selling
14 asbestos valve stem packing?

15 MS. PORTILLO: If you know.

16 A. I don't know.

17 Q. Did Sexauer continue to sell
18 asbestos valves stem packing in the 1980s?

19 A. It depends on if the -- when the
20 manufacturer substituted other material
21 besides the asbestos.

22 Q. Do you have any memory with
23 regard specifically to valve stem packing
24 when that transition occurred, or if it
25 occurred?

1 A. I'd like to clarify your meaning
2 of valve stem packing, and my understanding
3 of it.

4 Q. That's fine. What's your
5 understanding of it?

6 A. Valve stem packing is what we
7 called a preformed die cut packing. It was
8 shaped for particular use in a particular
9 manufacturing use.

10 Q. You and I are about on the same
11 page.

12 And it's your understanding that
13 that was manufactured with asbestos and
14 sold -- or that Sexauer sold an asbestos
15 version of valve stem packing as far back as
16 1964?

17 A. That's correct.

18 Q. Do you recall one way or another
19 whether or not Sexauer continued to sell
20 that product in the 1980s?

21 MS. PORTILLO: Asked and
22 answered.

23 A. I believe by that time all the
24 manufacturers had switched, and we were
25 buying whatever material was available. We

1 didn't specify the material as much as what
2 they supplied.

3 Q. And I'm going to go through a
4 list of a few items, and basically ask you
5 the same questions about those, in brief.

6 You're familiar with Sexauer
7 selling graphite asbestos packing; is that
8 correct?

9 A. Graphite asbestos packing, yes.

10 Q. And did Sexauer sell that in
11 1964?

12 A. Yes, it did.

13 Q. And your understanding is
14 Sexauer continued to sell it until the
15 manufacturer stopped making graphite
16 asbestos packing; is that right?

17 A. There was a change from graphite
18 asbestos packing to Teflon asbestos packing,
19 as Teflon came onto the market. It made for
20 a superior packing. In that graphite, when
21 you touched it, you dirtied your hands with
22 the blackness of the graphite.

23 Q. Do you recall when the
24 Teflon came more prevalent than graphite?

25 A. In the seventies. Teflon became

1 a household word and started with the pots
2 and pans.

3 MS. PORTILLO: Answer the
4 question. Okay.

5 BY MR. BOSL:

6 Q. With Teflon asbestos packing, is
7 it your understanding that Sexauer continued
8 to supply that until the asbestos version of
9 that product was no longer available?

10 A. Yes.

11 Q. And same question with regards
12 to asbestos sheet gaskets. J.A. Sexauer
13 sold asbestos sheet gaskets in 1964; is that
14 correct?

15 A. That's correct.

16 Q. And same question, your
17 understanding is that Sexauer continued to
18 sell that product until the asbestos version
19 was no longer available?

20 A. That's correct.

21 Q. You're familiar with a product
22 called Oakham, White Oakham?

23 A. No, I'm not.

24 Q. So you're not sure whether or
25 not J.A. Sexauer sold asbestos White Oakham;

1 is that correct?

2 A. I never heard that term.

3 Q. With regards to -- you're
4 familiar that J.A. Sexauer sold asbestos
5 lead joint runners?

6 A. Yes.

7 Q. Did Sexauer sell the asbestos
8 joint runners in 1964?

9 A. Yes.

10 MS. PORTILLO: I'll just object
11 to the questions about the joint
12 runners as irrelevant and lacking
13 foundation.

14 BY MR. BOSL:

15 Q. And is it your understanding
16 that Sexauer continued to sell that product
17 until asbestos joint runners were no longer
18 available?

19 A. That's correct.

20 Q. And Sexauer sold preformed
21 asbestos gaskets in 1964, correct?

22 A. Yes.

23 Q. And Sexauer continued to sell
24 those until they were no longer available?

25 A. In that material?

1 Q. Yes.

2 A. Yes.

3 Q. And Sexauer sold asbestos
4 washers in 1964, correct?

5 A. The term "washers" is very
6 broad. I don't understand it.

7 Q. I mean, I can show you a
8 catalogue if that would help your memory,
9 refresh your memory.

10 MS. PORTILLO: What is your
11 understanding of a "washer"?

12 THE WITNESS: When I hear
13 "washer," I think of a rubber product
14 that goes on the end of a stem, and I
15 think you may be referring it to a
16 gasket material too.

17 BY MR. BOSL:

18 Q. In haste, I didn't grab the one
19 I marked up.

20 Sir, I'm not going to attach the
21 entire document, but I'll hand you just a
22 couple of pages. The first page, you'd
23 agree this is the 1971 J.A. Sexauer
24 catalogue?

25 MS. PORTILLO: Well --

1 Q. A copy of it?

2 A. A copy of the cover, yes.

3 Q. Okay. And the following page I
4 handed you -- I'm sorry. If I could grab
5 that back from you.

6 The first page says, "Sexauer
7 Products 1971." The top of it is marked
8 "Hogan" in the left-hand corner, and in the
9 right-hand corner "P170."

10 And the second page I've been
11 handed is marked "Hogan" in the left-hand
12 corner, and in the right-hand corner "P188."

13 Sir, if I can see that, I'll
14 direct your attention.

15 If you look at the lower
16 left-hand corner, Sir, there's quite a
17 few -- well, there's a number of entries
18 that show asbestos washer. Do you see
19 that?

20 A. Yes.

21 Q. And is it your understanding
22 that Sexauer sold those products in 1964?

23 A. Yes.

24 Q. And is it your understanding
25 that Sexauer continued to sell those

1 products until the asbestos version was no
2 longer available?

3 A. Yes.

4 MR. BOSL: I guess we should
5 mark these two pages as Plaintiffs'
6 D.

7 MS. PORTILLO: For the record,
8 since we're having them marked as an
9 exhibit, they'll speak for themselves.

10 Just to clarify Counsel's
11 representation of a number. I see
12 one, two -- approximately four out of
13 the thirty or so that are marked as
14 asbestos washers. But the document
15 will be attached so that will be part
16 of the record.

17 THE WITNESS: May I just
18 clarify, perhaps, our difference in
19 the terminology?

20 I consider this cap thread
21 gaskets. But they are referred to as
22 washers here. But in my vocabulary,
23 when you say "washers," I don't think
24 of these.

25 (Sbezzi Exhibit D, Marked.)

1 BY MR. BOSL:

2 Q. So let me clarify my questions
3 before then. Is it your understanding that
4 Sexauer sold asbestos cap thread gaskets in
5 1964?

6 A. Yes.

7 Q. And is it your understanding
8 that Sexauer continued to sell cap thread
9 gaskets until they were no longer available?

10 A. Yes.

11 Q. Finally, you're familiar with a
12 product called "asbestos wicking"?

13 A. Yes.

14 Q. And is it your understanding
15 Sexauer sold asbestos wicking in 1964?

16 A. Yes.

17 Q. And is it your understanding
18 that Sexauer continued to sell asbestos
19 wicking until the asbestos wicking was no
20 longer available?

21 A. Yes.

22 MR. BOSL: Counsel, if you want
23 to take a look at this for a moment.

24 MS. PORTILLO: Okay. I have not
25 seen this document before, so I'm

1 going to have to review it really
2 quickly before you ask questions on
3 it.

4 MR. BOSL: That's fine.

5 (Pause in proceedings.)

6 MR. BOSL: Unfortunately, I have
7 only one copy of this as well.

8 MS. PORTILLO: That's fine.

9 MR. BOSL: I'm going to go ahead
10 and attach this and the various
11 documents associated with it as
12 Plaintiffs' E. It's the June 20, 2008
13 Declaration of Daniel Peders,
14 P-E-D-E-R-S, authenticating asbestos
15 photographs.

16 MS. PORTILLO: I'll just make an
17 objection to the exhibit as lacking
18 foundation, and authentication, and
19 irrelevant.

20 (Sbezzi Exhibit E, Marked.)

21 BY MR. BOSL:

22 Q. Sir, I want to show you this
23 first picture. I guess we'll call this
24 Exhibit E, sub one. And can you tell me if
25 you recognize what the picture depicts?

1 A. A metal container containing
2 valve stem packing.

3 Q. And it has the Sexauer name on
4 it; is that correct?

5 A. That's correct.

6 Q. Have you seen a canister like
7 that before?

8 A. Yes.

9 Q. And that was in your employment
10 as a Sexauer employee?

11 A. Yes.

12 Q. And you would agree with me that
13 that is the label that Sexauer used on valve
14 stem packing?

15 MS. PORTILLO: Real broad as to
16 time. Lacks foundation.

17 Q. At some point -- and we'll get
18 into the when in a moment.

19 A. Yes.

20 Q. And when do you recall that
21 being the label on Sexauer valve stem
22 packing?

23 A. From the sixties on, or when I
24 started working with Sexauer.

25 Q. Have you ever used valve stem

1 packing yourself?

2 A. I'm not a plumber.

3 Q. So that's a no?

4 A. No. I'm sorry.

5 Q. And I'll hand you the next page
6 which we'll mark as Exhibit E, sub two, and
7 I'm going to put a little two in the bottom
8 right-hand corner to that extent.

9 Would you agree with me that on
10 the canisters of valve stem packing that you
11 saw, that's what the top of the canisters
12 looked like?

13 A. Yes. This is a different view
14 of the same product.

15 Q. And I want to reference in the
16 left and in the middle of the top of the
17 canister, sub two there -- right here.
18 There's a little logo there or slogan of
19 some sort. If you could read that for me.

20 A. "The Make Tight Stay Tight
21 line."

22 Q. Was that a Sexauer line of
23 products.

24 A. It was more of a logo that was
25 used in some cases. Sexauer liked to use

1 logos to distinguish their products from
2 others.

3 For example, as you can see on
4 the boxes, we call this Mule Kick, and that
5 designated the power of the products were as
6 strong as a mule could kick. And they
7 were -- we sold products like sodium
8 hydroxide, which is your Drano, and
9 sulphuric acid to clean out fixtures that
10 were clogged up, and therefore they liked
11 these catchy names.

12 Q. The Make Tight Stay Tight logo
13 is a J.A. Sexauer logo; is that right?

14 A. Yes, as far as I know.

15 Q. Do you recall when that logo was
16 used?

17 A. When was it first used?

18 Q. Yes.

19 A. It was there when I started in
20 '63. It might have started before. I don't
21 know.

22 Q. How long was that logo used by
23 Sexauer as far as you know?

24 A. I don't know.

25 Q. Do you recall Sexauer using that

1 logo in the seventies?

2 A. Yes.

3 Q. Do you recall Sexauer using that
4 logo in the eighties?

5 A. I don't recall.

6 Q. I'm going to hand you the next
7 picture, which I'll mark with a three in the
8 bottom right-hand corner. It appears to be
9 the canister opened up.

10 Have you ever seen Sexauer valve
11 stem packing, not just the canister but the
12 product itself?

13 A. Only on the canister.

14 Q. Have you seen a canister opened
15 up before?

16 A. Yes.

17 Q. Would you agree with me that in
18 the third picture there, that's what the
19 valve stem packing looks like that you had
20 seen previously?

21 MS. PORTILLO: I'm going to
22 object as lacking foundation, picture,
23 and the use of this picture to assert
24 that this is the depiction of valve
25 stem packing at the time Mr. Sbezzi

1 saw it.

2 This is a picture of something.
3 We have no idea when the picture was
4 taken, or how long ago this product
5 was manufactured or anything like
6 that. So I think the representation
7 of its appearance at the time is
8 distorted and this particular
9 picture -- we just object on that
10 basis.

11 BY MR. BOSL:

12 Q. Sir, does what you see in that
13 picture look the same as what you saw when
14 you saw a Sexauer valve stem canister
15 opened?

16 MS. PORTILLO: Objection to the
17 term, the same, vague and ambiguous.

18 A. Appears to be.

19 Q. Is there anything different
20 about what's in that picture from what you
21 saw when you saw J.A. Sexauer valve stem
22 packing canister opened up?

23 A. The only thing I would comment
24 on is the strands that are coming out of
25 here are darker than what that material is.

1 I just don't know if that's a continuation
2 of this material.

3 Q. And you're talking about the
4 material that looks to be on the very end of
5 the spool there; is that correct?

6 A. Being darker.

7 Q. Yes. Okay.

8 But the rest of the material
9 that's on the spool in the canister looks
10 the same as the valve stem packing that you
11 saw when you saw a Sexauer valve stem
12 canister opened; is that correct?

13 MS. PORTILLO: Same objections.

14 Overly broad.

15 A. Appears to be.

16 BY MR. BOSL:

17 Q. Do you recall when you saw a
18 Sexauer valve stem packing canister opened?

19 A. No, I do not.

20 Q. I'm going to show you the last
21 picture, which is of something completely
22 different.

23 The words on the picture, sub
24 four, are "Sexauer Rebuilding Kit."

25 Sir, have you seen Sexaeur

1 rebuilding kits in the past?

2 A. Yes, I have.

3 Q. Does this appear, based on your
4 experience having seen Sexauer rebuilding
5 kits in the past, does what's in that
6 picture appear to be a Sexauer rebuilding
7 kit?

8 MS. PORTILLO: Same objections
9 as before. Vague and ambiguous as to
10 time. Lacks foundation.

11 A. There was maybe fifty or more
12 different types of kits. This appears to be
13 like one of them.

14 Q. It has that same Make Tight Stay
15 Tight logo on it; is that correct?

16 A. That's correct.

17 MS. PORTILLO: Well, I'll just
18 object as to misstating or
19 misrepresenting. Vague and
20 ambiguous.

21 BY MR. BOSL:

22 Q. And, Sir, the wording on the
23 picture says that it's a rebuilding kit for
24 Crane Concord mix valve; is that correct?

25 A. Yes, Sir, it is.

1 Q. Based on your experience, did
2 Sexauer make rebuilding kits -- I'm sorry.
3 Did Sexauer supply rebuilding kits for Crane
4 Concord mix valves?

5 A. Again, I don't recall each and
6 every kit. I would say yes, seeing this.

7 Q. With regards to the rebuilding
8 kits that Sexauer supplied, who assembled
9 the rebuilding kits?

10 MS. PORTILLO: Lacks foundation.

11 Calls for speculation.

12 A. By "assemble," who put them
13 together?

14 Q. Yes.

15 A. The people in the Sexauer
16 warehouse.

17 Q. So am I right -- Sexauer would
18 take various parts and put them together in
19 a rebuilding kit?

20 A. That's correct.

21 Q. How did the warehousemen know
22 what products to put into what rebuilding
23 kit?

24 MS. PORTILLO: Same

25 objections.

1 A. They were told each kit had
2 different parts, and that's how they knew
3 what to put in.

4 Q. Where did that information come
5 from?

6 A. I do not know.

7 Q. Did Sexauer compile its -- or
8 assemble -- I guess I'll say assemble -- its
9 rebuilding kits based on information from
10 the equipment manufacturer that the
11 rebuilding kit was for?

12 MS. PORTILLO: Calls for
13 speculation. Lacks foundation.

14 MR. TANDBERG: Objection.
15 Foundation. Leading. Vague and
16 ambiguous. Thank you.

17 MR. BOSL: I can lead an adverse
18 witness, anyway.

19 Q. Go ahead, Sir.

20 A. Would you mind asking the
21 question again?

22 MR. BOSL: Actually, maybe the
23 court reporter can read it back to
24 you. That would be the easiest way.

25 THE COURT REPORTER: "Did

1 Sexauer compile its -- or assemble --
2 I guess I'll say assemble -- its
3 rebuilding kits based on information
4 from the equipment manufacturer that
5 the rebuilding kit was for?"

6 A. Not that I know of.

7 Q. How did Sexauer determine what
8 products went into a rebuilding kit?

9 A. I could only speculate.

10 Q. Who within Sexauer was in charge
11 of determining what product to or what
12 products to put into a rebuilding kit?

13 A. I do not know.

14 Q. Who did the warehousemen answer
15 to?

16 A. Warehouse manager.

17 Q. Which warehouse assembled and
18 packaged the rebuilding kits?

19 A. What period of time?

20 Q. The Louisville plant was opened
21 at a later time; am I right with that?

22 A. Yes.

23 Q. When did the Louisville plant
24 open?

25 A. I believe in the eighties. I

1 don't have a date.

2 Q. And prior to -- prior to
3 Louisville opening, remind me again where
4 the only warehouse was for Sexauer?

5 A. Ten Hamilton Avenue, White
6 Plains, and that's up in '63. Prior to '63
7 Sexauer was located in the Bronx.

8 Q. After the Louisville plant
9 opened, the White Plains facility continued
10 to operate; is that correct?

11 A. Yes, that's correct.

12 Q. So up until the point -- from 63
13 until the Louisville plant opened, were all
14 of the rebuilding kits put together at the
15 White Plains facility?

16 A. Yes.

17 Q. After the Louisville facility
18 opened, where were the rebuilding kits
19 assembled?

20 A. Both places.

21 Q. Who was the warehouse manager at
22 the Louisville plant when it opened?

23 A. Tom Imperato, I-m-p-e-r-a-t-o,
24 Junior.

25 Q. How long did he remain the

1 warehouse manager in Louisville?

2 A. I believe sometime in the middle
3 nineties. And the warehouse manager in
4 White Plains was --

5 Q. Let me ask you the question.

6 MS. PORTILLO: Wait until he
7 asks you the question.

8 BY MR. BOSL:

9 Q. Who was the warehouse manager
10 when White Plains started in 1963?

11 A. Tom Imperato, Senior.

12 Q. How long did Mr. Imperato,
13 Senior, remain the manager there in White
14 Plains?

15 A. He was there when I started in
16 '63, and I believe until the late seventies.

17 Q. Who took over for him at White
18 Plains?

19 A. I believe White Plains was
20 closed down before he left, the warehouse
21 portion.

22 Q. When did the White Plains
23 warehouse portion close down?

24 A. In the seventies.

25 Q. After the warehouse portion of

1 the White Plains facility closed down, the
2 rebuilding kits were still assembled in
3 White Plains; is that correct?

4 A. Just repeat the first part of
5 your question.

6 Q. After the White Plains warehouse
7 was closed down in the late seventies, did
8 White Plains continue to assemble rebuilding
9 kits?

10 A. No.

11 Q. When White Plains closed down,
12 was Louisville already up and running?

13 A. Yes.

14 Q. So after the White Plains
15 facility closed down, the warehouse closed
16 down, were all rebuilding kits made at the
17 Louisville plant?

18 A. Yes.

19 Q. How long, if any, was there an
20 overlap where both facilities were
21 assembling rebuilding kits?

22 A. Might have been a two- to
23 three-year period.

24 Q. I want to hand you what I'll
25 have marked as Plaintiffs' next in order. I

1 believe it's F.

2 (Sbezzi Exhibit F, Marked.)

3 BY MR. BOSL:

4 Q. Sir this is another picture.

5 MR. BOSL: And I'll simply state
6 for the record that it's an attachment
7 to the Pedrazzi deposition in this
8 case.

9 Take a look at Exhibit F. Would
10 you agree with me that that's the J.A.
11 Sexauer Make Tight Stay Tight line logo?

12 A. Yes, it is.

13 Q. To your knowledge, did any
14 company other than J.A. Sexauer use the Make
15 Tight Stay Tight logo, at any time?

16 MS. PORTILLO: Calls for
17 speculation.

18 A. Not that I know of.

19 Q. Based on your experience working
20 for Sexauer, do you recall seeing the Make
21 Tight Stay Tight logo on gaskets that J.A.
22 Sexauer supplied?

23 A. No, I did not.

24 Q. I'm trying to figure out the
25 best way to answer this.

1 Do you have any information that
2 it was not put on J.A. Sexauer gasket
3 material? In other words, do you know
4 either way whether the Make Tight Stay Tight
5 logo was put on J.A. Sexauer gasket
6 material?

7 A. Not that I know of.

8 Q. Sir, I want to ask you briefly
9 about what I'll attach as Exhibit G, which
10 is the Declaration of Carmelo Sbezzi. Am I
11 pronouncing your name right?

12 A. Very close. Sbezzi.

13 Q. The Declaration of Carmelo
14 Sbezzi in support of J.A. Sexauer's Motion
15 for Summary Judgment and/or Summary
16 Adjudication, dated September 21st, 2009.

17 Sir, I'll hand this to you.
18 That's your signature on the bottom; is that
19 correct?

20 A. Yes, it is.

21 Q. And do you recall signing that
22 Declaration?

23 A. Yes, I do.

24 Q. If I can grab that back from you
25 for one second. I'm sorry.

1 MR. BOSL: Before we move on,
2 why don't I have you mark this one so
3 it doesn't get lost.

4 (Sbezzi Exhibit G, Marked.)

5 BY MR. BOSL:

6 Q. Sir, with regard to Exhibit G, I
7 want to ask you -- I've circled one of the
8 paragraphs here.

9 Am I correct you state in the
10 deposition, "All of the products and
11 materials J.A. Sexauer sold that contained
12 asbestos did not produce dust."

13 Did I read that correct?

14 MS. PORTILLO: You said
15 deposition. You mean Declaration?

16 MR. BOSL: I'm sorry,
17 Declaration, yes.

18 A. You read it correctly.

19 Q. Sir, what's the basis of the
20 statement you made there in the Declaration?

21 A. On the basis that I had
22 knowledge that the fiber was encapsulated,
23 that it would not create dust when cut.

24 Q. And your understanding of the
25 fact that these products were encapsulated

1 is based on your memory of what the various
2 manufacturers wrote in response to Sexauer's
3 inquiry?

4 A. That's correct.

5 Q. Do you have any background in
6 industrial hygiene yourself?

7 A. No. Thank you.

8 Q. And do you have any background
9 in material science?

10 A. No.

11 Q. And have you received any
12 scientific training of any sort?

13 A. No.

14 Q. So am I right, your
15 understanding -- I'm sorry. If I'm
16 paraphrasing incorrectly, please correct me.

17 But my understanding of your
18 statement then, in Number 7, is that what
19 you mean there is that the asbestos products
20 J.A. Sexauer sold were encapsulated, to your
21 understanding; is that correct?

22 A. That's correct.

23 Q. Now, you have in the past seen a
24 study that Dr. Arthur Langer did of some
25 Sexauer products; is that right?

1 MS. PORTILLO: Assumes facts.

2 A. I've heard of it.

3 Q. Am I correct that you heard that
4 he did find some release of dust from
5 asbestos products?

6 MS. PORTILLO: Well, lacks
7 foundation. Assumes facts. He's
8 testified he heard of the study, and
9 has not reviewed the study or at least
10 that hasn't been established, so
11 foundation.

12 BY MR. BOSL:

13 Q. Did you ever read the Arthur
14 Langer study?

15 A. No.

16 Q. And what was your understanding
17 of what Dr. Langer found?

18 MS. PORTILLO: Assumes facts.
19 Calls for speculation.

20 A. It was my understanding that the
21 Sexauer products that contained asbestos did
22 not emit any asbestos fiber less than what's
23 found in ambient air.

24 MS. PORTILLO: Did you mean more
25 than?

1 THE WITNESS: Did not.

2 MS. PORTILLO: It didn't emit.

3 MR. BOSL: The court reporter
4 can read it back.

5 THE COURT REPORTER: "It was my
6 understanding that the Sexauer
7 products that contained asbestos did
8 not emit any asbestos fiber less than
9 what's found in ambient air."

10 THE WITNESS: Did not emit any
11 more than was found. Off the
12 record.

13 MR. McCAGHEY: No. Not off the
14 record.

15 MS. PORTILLO: We're on the
16 record.

17 A. On the record.

18 BY MR. BOSL:

19 Q. I'll ask you some questions, and
20 we'll go from there. Okay.

21 MR. BOSL: Actually, we haven't
22 taken a break in a little while. Why
23 don't we go ahead and take a break.

24 MS. PORTILLO: Okay. Off the
25 record.

1 (Off-the-record discussion.)

2 (Recess taken at 12:10 p.m. to 12:12 p.m.)

3 BY MR. BOSL:

4 Q. Sir, I only have a few more
5 questions. I did want to ask you one other
6 question about Exhibit F. And I'm sorry.
7 On the very bottom it's somewhat faded, but
8 on the bottom of the logo there, would you
9 agree that says "J.A. Sexauer"?

10 A. Yes.

11 Q. That was my only question.

12 Sir, do you have any memory of
13 J.A. Sexauer recalling any of its
14 products?

15 A. No, I do not.

16 Q. Would you agree with me that
17 it's good business practice that if a
18 product proved to cause serious bodily harm,
19 it would be good business practice for the
20 company selling that to warn the customer?

21 MS. PORTILLO: The question
22 assumes facts. It's an incomplete
23 hypothetical, and it's lacking
24 foundation, and argumentative.

25 Q. Go ahead.

1 A. May I hear the question again,
2 please?

3 THE COURT REPORTER: "Would you
4 agree with me that it's good business
5 practice that if a product proved to
6 cause serious bodily harm, it would be
7 good business practice for the company
8 selling that to warn the customer?"

9 A. That sounds very logical.

10 BY MR. BOSL:

11 Q. Was there ever a time that J.A.
12 Sexauer issued any kind of warning about any
13 matter to its customers?

14 MS. PORTILLO: Overly broad as
15 to time. Vague and ambiguous.
16 Assumes facts.

17 A. Not that I know of.

18 Q. Let me just explore one little
19 other area.

20 Sir, the responses -- the
21 letters that J.A. Sexauer sent to the
22 manufacturer of its products in the late
23 1970s about asbestos, do you know if copies
24 of those letters have been maintained at
25 Sexauer?

1 MS. PORTILLO: Calls for
2 speculation.

3 A. Not that I know of.

4 Q. Do you know if Sexauer kept the
5 letters in response?

6 MS. PORTILLO: Same objection.

7 A. Not that I know of.

8 Q. Have you conducted any search
9 for those documents?

10 A. No.

11 MR. BOSL: I think I'm done.
12 I'm going to reserve my right. I'm
13 going to ask Sexauer to conduct an
14 investigation, if it hasn't been done
15 already, for the letters to the
16 manufacturers and the response
17 thereto. I think it's clearly asked
18 for in our notice, and I'll reserve my
19 right to ask questions once they're
20 produced, if they exist.

21 MR. BOSL: Other than that,
22 though. I think we can go off the
23 record.

24 MS. PORTILLO: Hold on. I have
25 some questions, just very few and

1 other people may. I don't know.

2 EXAMINATION

3 BY MS. PORTILLO:

4 Q. I just have a few questions for
5 you, Mr. Sbezzi.

6 Did you ever know or have any
7 knowledge that any of the products that
8 Sexauer supplied at any time ever caused or
9 could cause anyone serious bodily harm.

10 MR. BOSL: Calls for medical and
11 expert opinion.

12 A. No, I did not.

13 Q. And you testified earlier about
14 this Make Tight Stay Tight line logo that
15 Counsel had asked you questions about in
16 Exhibit F.

17 Do you recall that?

18 A. Yes.

19 Q. Did Sexauer ever put that logo
20 on any sheet gasket or gasket material?

21 MR. BOSL: Lack of foundation.

22 A. Not that I ever saw.

23 Q. And is it true that that
24 particular logo is not associated with any
25 particular product line or a product that

1 Sexauer sold?

2 MR. BOSL: Vague and
3 ambiguous.

4 A. That's correct.

5 MS. PORTILLO: Those are all my
6 questions. I would like to go off the
7 record before we officially conclude
8 the deposition.

9 MR. BOSL: I did have one or two
10 follow-up questions based on your
11 questions, if we could do that.

12 FURTHER EXAMINATION

13 BY MR. BOSL:

14 Q. Sir, the Make Tight Stay Tight
15 logo was associated with J.A. Sexauer,
16 right?

17 A. Yes.

18 Q. And not with any other company
19 that you're aware of, correct?

20 A. Not that I know of.

21 MS. PORTILLO: Asked and
22 answered.

23 MR. BOSL: Okay. That's fine.

24 We can go off the record for a moment.

25 (Recess taken at 12:19 p.m. to 12:26 p.m.)

1 MR. BOSL: We'll go back on the
2 record then.

3 I've been handed by counsel the
4 letters that I referenced a few
5 moments ago. We'll go ahead and
6 attach them.

7 Plaintiffs' H will be the
8 February 1st, 1979 letter from A.J.
9 Schiavo to Gaddis Engineering Company.

10 Plaintiffs' I is the February
11 1st, 1979 letter from A.J. Schiavo to
12 Johns-Manville Sales Corporation.

13 Plaintiffs' J is the February
14 1st, 1979 letter from A.J. Schiavo to
15 Eureka Packing Company.

16 And Plaintiffs' K is the
17 February 1st, 1979 letter from A.J.
18 Schiavo to Raybestos Manhattan, Inc.

19 Plaintiffs' L is the February
20 5th, 1979 letter from Frank Gaddis of
21 the Gaddis Engineering Company to A.J.
22 Schiavo.

23 Plaintiffs' M is the February
24 13, 1979 letter on Johns-Manville
25 letterhead to A.J. Schiavo. The

1 signature is somewhat indiscernible,
2 but the letterhead has the name Edmond
3 M. Fenner.

4 Plaintiffs' N is the February
5 22, 1979 letter from B. King of the
6 Eureka Packing Company to A.J.
7 Schiavo.

8 And finally, Plaintiffs' O is
9 the April 5, 1979 letter from J.W.
10 Murray of RM Industrial Products
11 Company to J.A. Sexauer, Inc.,
12 Mr. Schiavo.

13 BY MR. BOSL:

14 Q. Let me ask collectively, Sir
15 about Exhibits H through K, if you'll take a
16 look.

17 Are these the letters that you
18 reference or copies of the letters that you
19 reference that Mr. Schiavo sent about
20 asbestos to the four entities?

21 A. Yes.

22 Q. And you recognize all of those
23 letters as being on J.A. Sexauer letterhead?

24 A. Yes.

25 Q. And you would agree that

1 Mr. Schiavo sent those letters in the course
2 of J.A. Sexauer's ordinary business?

3 A. What does "ordinary" mean?

4 Q. It was part of their business
5 practice -- it was part of their conducting
6 business that Mr. Schiavo sent these
7 letters; is that right?

8 A. Yes.

9 Q. And the subject line on all four
10 of those letters is "Asbestos Packing"; is
11 that correct? Under the address there's a
12 line that says, "Subject: Asbestos
13 Packing," right?

14 A. I just want to look at all four.
15 (Witness reviewing document.)

16 A. Yes.

17 Q. Are you aware of any letters
18 that Mr. Schiavo ever sent, or anyone at
19 Sexauer ever sent, asking about any other
20 asbestos products other than just packing to
21 the manufacturers?

22 MS. PORTILLO: Well, the
23 question assumes facts, and it's vague
24 and ambiguous. Lacks foundation.

25 A. Not that I know of.

1 Q. For example, are you aware of
2 anyone at J.A. Sexauer ever writing to a
3 manufacturer about asbestos gaskets?

4 A. Not that I know of.

5 Q. Am I correct, you did see the
6 response from the various manufacturers as
7 they came in to Sexauer; is that correct?

8 A. Back in the seventies?

9 Q. Yes. At the time. That's
10 correct?

11 A. Yes.

12 Q. And I'm going to hand you
13 collectively Exhibits L through O.

14 Are these the responses that you
15 recall receiving from the four companies?

16 A. May I read them first?

17 Q. You may.

18 (Witness reviewing documents.)

19 MR. BOSL: While he's reading
20 them, rather than going through the
21 questioning, can we agree that J.A.
22 Sexauer received these letters in its
23 ordinary course of business?

24 MS. PORTILLO: Yes.

25 A. May I hear the question again,

1 please?

2 MR. BOSL: May you read it back?

3 THE COURT REPORTER: "Are these
4 the responses that you recall
5 receiving from the four companies"?

6 THE WITNESS: Yes.

7 MS. PORTILLO: And by "you," you
8 mean J.A. Sexauer received?

9 MR. BOSL: Yes.

10 MR. BOSL: Well, let me clarify.

11 BY MR. BOSL:

12 Q. You recall that when you read
13 the responses from the companies in 1979,
14 these letters are what you read; is that
15 correct?

16 A. I'd have to assume that because
17 they are addressed to the -- to us at the
18 time, and I have no knowledge of them being
19 otherwise.

20 Q. And this corresponds with what
21 you remember those letters saying in 1979?

22 A. Yes, it does.

23 Q. J.A. Sexauer sold Eureka
24 packing; is that correct?

25 A. Products from Eureka Packing.

1 Q. And the products that they sold
2 were packing -- or was packing; is that
3 correct?

4 A. Yes.

5 Q. Were there any other products
6 that J.A. Sexauer -- let me back up.

7 Were there any other asbestos
8 products that J.A. Sexauer sold that were
9 manufactured by Eureka other than packing?

10 A. Not that I know of.

11 Q. The letter from Raybestos
12 Manhattan, Exhibit O, references valve
13 rings.

14 Is it your understanding that
15 valve rings is a type of packing?

16 A. Yes.

17 Q. So with regards to the
18 Johns-Manville, Eureka and asbestos letters,
19 do you understand them to make any reference
20 to any type of product other than asbestos
21 packing in the letters?

22 MS. PORTILLO: I'll object as
23 compound. Vague and ambiguous as to
24 the term "asbestos packing."

25 A. They appear to make reference to

1 the packings that we bought from these
2 manufacturers.

3 Q. And you don't see a reference to
4 any products other than packing; is that
5 correct?

6 A. That's correct.

7 MS. PORTILLO: I'll interpose
8 the same objections as vague and
9 ambiguous as to the term packing.

10 BY MR. BOSL:

11 Q. The letter from Gaddis
12 Engineering Company, it talks about a
13 Garlock compressed asbestos sheet. Is it
14 your -- what type of product is that
15 referring to?

16 A. That is a product that's in the
17 form of a sheet and not die cut preform
18 packing rings as from Raybestos and
19 Johns-Manville.

20 Q. As far as you know, is that
21 sheet product referencing a packing
22 material, or is it a gasket material? What
23 kind of a product was it, if you know?

24 A. Packing, gasket material.

25 Q. Do you see in any of the four

1 letters any reference to -- well -- all
2 right.

3 To your knowledge, did J.A.
4 Sexauer officers or employees ever attend
5 any kind of national conferences or
6 conventions?

7 MS. PORTILLO: Vague and
8 ambiguous. Overly broad.

9 A. Conference or convention?

10 Q. With regards to any kind of
11 industry or trade?

12 MS. PORTILLO: Same objection.

13 A. Not that I know.

14 MR. BOSL: I think those are all
15 the questions that I have. Thank you.

16 MS. PORTILLO: I don't have any
17 further questions. Anybody else?

18 MR. BOSL: I think we can all
19 agree and stipulate that the witness
20 can read and sign a copy of the
21 transcript, and that we'll relieve the
22 court reporter of her duty to maintain
23 the original of the transcript, and
24 she can send that to our office, and
25 we'll maintain it.

1 MS. PORTILLO: Yes. We
2 stipulate to that.
3 (Sbezzi Exhibits H through O, Marked.)
4 (Deposition concluded at 12:42 p.m.)
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I, Sandra A. Deschaine, a Registered Professional Reporter and Notary Public in and for the State of Connecticut, do hereby certify that the foregoing deposition was taken before me on the 16th day of October, 2009;

That the witness named in the deposition, prior to being examined, was by me first duly sworn;

That said deposition was taken before me at the time and place therein set forth, and was taken down by me in shorthand and thereafter transcribed into typewriting under my direction and supervision;

That said deposition is a true record of the testimony given by the witness and of all objections made at the time of the examination.

I further certify that I am neither counsel for nor related to any part to said action, nor in any way interested in the outcome thereof.

IN WITNESS THEREOF, I have subscribed my
name and affixed my seal this day of
 , 2009.

Sandra A. Deschaine, Notary Public
in and for the State of
Connecticut
Connecticut License No. 343
My Commission expires: 7/31/2013