

FILE NAME: Flintkote (FLK)

DATE: 1984 Apr

DOC#: FLK082

DOCUMENT DESCRIPTION: Legal - Deposition of Arthur R. Hooker

motion

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

In Re: Sterns,
Brown & Finney Consolidated
For Discovery Related Shipyard
and Applicator Asbestos Cases.

No. 573686-9

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

In Re: Sterns,
Brown & Finney Consolidated
For Discovery Related
Shipyard and Applicator
Asbestos Cases.

No. 805555

DEPOSITION OF ARTHUR R. HOOKER

April 12, 1984

April 13, 1984

PATRICIA CALLAHAN & ASSOCIATES
CERTIFIED SHORTHAND REPORTERS

COPY

REPORTED BY DEBORAH WONG BROOKS
C.S.R. NO. 5223

337-17TH STREET
SUITE 100
OAKLAND, CALIFORNIA 94612
(415) 835-3993

FvAM 60193335
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removal permanently

1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 IN AND FOR THE COUNTY OF LOS ANGELES
3
4

5 DOROTHY ST. JACQUE, etc., et al.,

6 Plaintiffs,

No. C 137 465

7 vs.

8 JOHNS-MANVILLE, etc., et al.,

9 Defendants.
10 _____/

11 AND ALL RELATED CASES.
12 _____/

13
14 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 IN AND FOR THE COUNTY OF ALAMEDA
16
17

18 IN RE: FIBREBOARD PLANTWORKERS
19 ASBESTOS CASES
20 (KAZAN & KILBOURNE)
21 CONSOLIDATED FOR DISCOVERY,

22 Plaintiff,

No. 537064-7

23 vs.

24 JOHNS-MANVILLE CORPORATION,
25 et al.,

26 Defendants.
27 _____/

28 --o0o--

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A PHOTOCOPY OF A ONE-PAGE MEMO ON THE LETTERHEAD OF THE FLINTKOTE COMPANY, DATED JANUARY 30, 1983, TO MR. E. A. OPILA AND VARIOUS OTHERS, FROM M. L. JOHNSON; A PHOTOCOPY OF A TWO-PAGE LETTER ON THE LETTERHEAD OF ASBESTOS INFORMATION ASSOCIATION/NORTH AMERICA, DATED JANUARY 17, 1973, ADDRESSED TO "GENTLEMEN," FROM MATTHEW M. SWETONIC, EXECUTIVE SECRETARY; AND A PHOTOCOPY OF A SEVEN-PAGE DOCUMENT ENTITLED "ASBESTOS, THE SAVER OF LIVES, HAS A DEADLY SIDE."

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A PHOTOCOPY OF A MEMO ON THE LETTERHEAD OF THE FLINTKOTE COMPANY, DATED MARCH 13, 1973, TO MR. E. A. OPILA AND VARIOUS OTHERS, FROM M. L. JOHNSON; A PHOTOCOPY OF A TWO-PAGE MEMO ON THE LETTERHEAD OF ASBESTOS INFORMATION ASSOCIATION/ NORTH AMERICA, DATED FEBRUARY 27, 1973, FROM MATTHEW M. SWETONIC, EXECUTIVE SECRETARY; AND A PHOTOCOPY OF A ONE-PAGE DOCUMENT ENTITLED "THE HAZARDS OF SAFETY."

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A PHOTOCOPY OF A ONE-PAGE MEMO DATED NOVEMBER 5, 1973, TO MR. C. H. BARANOWSKI AND MR. T. H. PARKE, JR.

PLAINTIFFS' EXHIBIT NO. 32

285

A PHOTOCOPY OF A ONE-PAGE LETTER DATED JANUARY 22, 1974, ADDRESSED TO MR. W. H. NEWTON, PACKAGING MANAGER, FROM C. H. BARANOWSKI, ASSISTANT MERCHANDISE MANAGER, GYPSUM PRODUCTS.

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PLAINTIFFS' EXHIBIT NO. 36 288
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EXHIBITSPAGE

TO BE HELD ON MARCH 14, 1972, CONSISTING OF THIRTEEN PAGES; A PHOTOCOPY OF A ONE-PAGE HANDWRITTEN DOCUMENT WITH "REMOVED DOCUMENT" AT THE TOP; A PHOTOCOPY OF A ONE-PAGE HANDWRITTEN DOCUMENT WITH "REMOVED DOCUMENT" AT THE TOP; AND A PHOTOCOPY OF A ONE-PAGE DOCUMENT WITH "REMOVED DOCUMENT" AT THE TOP.

PLAINTIFFS' EXHIBIT NO. 43 294
A PHOTOCOPY OF A ONE-PAGE LETTER ON THE LETTERHEAD OF JOHNS-MANVILLE CORPORATION, DATED AUGUST 7, 1961, ADDRESSED TO MR. KOCH, ORANGEBURG PIPE DIVISION, FROM W. L. VANDERBEEK, VICE PRESIDENT AND PRODUCTION MANAGER.

PLAINTIFFS' EXHIBIT NO. 44 295
A PHOTOCOPY OF A ONE-PAGE LETTER ON THE LETTERHEAD OF CANADIAN JOHNS-MANVILLE CO., LIMITED, DATED JUNE 4, 1968, TO "DEAR SIR," AND A PHOTOCOPY OF A THREE-PAGE DOCUMENT ENTITLED "Q.A.M.A.," DATED MAY 2, 1968.

PLAINTIFFS' EXHIBIT NO. 45 296
A PHOTOCOPY OF A ONE-PAGE LETTER ON THE LETTERHEAD OF GAF CORPORATION, DATED MARCH 9, 1972, ADDRESSED TO MR. A. R. HOOKER, JR., AND A PHOTOCOPY OF A SEVEN-PAGE DOCUMENT ENTITLED "OCCUPATIONAL SAFETY & HEALTH ADMINISTRATION PUBLIC HEARINGS ON PROPOSED REGULATIONS CONCERNING ASBESTOS DUST, WASHINGTON, D.C. - MARCH 14, 1972, STATEMENT OF JOSEPH G. HALL."

PLAINTIFFS' EXHIBIT NO. 46 298
A PHOTOCOPY OF A ONE-PAGE MEMO ON THE LETTERHEAD OF RESILIENT FLOOR COVERING INSTITUTE, DATED AUGUST 10, 1977, TO RFCI MEMBERS FROM ROBERT D. MAURER, MANAGING DIRECTOR, AND A PHOTOCOPY OF FIVE PAGES, THE FIRST PAGE BEING ENTITLED "NIOSH LISTS TRADE NAME PRODUCTS CONTAINING CARCINOGENS REGULATED BY OSHA."

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1 BE IT REMEMBERED THAT, pursuant to Notice of Taking
2 Deposition, and on Thursday, April 12, 1984, commencing at
3 the hour of 9:20 o'clock a.m. of the said day, and continuing
4 on Friday, April 13, 1984, commencing at the hour of 8:50
5 o'clock a.m. of the said day, at the law offices of STERNS,
6 SMITH & WALKER, 280 Utah Street, San Francisco, California,
7 before me, DEBORAH WONG BROOKS, a Notary Public in and for
8 the County of Alameda, State of California, personally
9 appeared ARTHUR R. HOOKER, a witness in the above-entitled
10 courts and causes, produced on behalf of the plaintiffs
11 therein, who, being by me first duly sworn, was then and
12 there examined and interrogated by Attorney CHRISTOPHER E.
13 GRELL, representing the law firm of STERNS, SMITH & WALKER,
14 280 Utah Street, San Francisco, California, counsel for the
15 plaintiffs therein.

16
17 APPEARANCES OF COUNSEL

18
19 FOR PLAINTIFFS IN RE: STERNS, BROWN & FINNEY
20 CONSOLIDATED FOR DISCOVERY RELATED SHIPYARD
AND APPLICATOR ASBESTOS CASES:

21 STERNS, SMITH & WALKER
22 BY: CHRISTOPHER E. GRELL, ESQ.
23 280 Utah Street
San Francisco, California 94103

24 FOR PLAINTIFFS, DOROTHY ST. JACQUE, ETC., ET AL.;
25 AND ALL RELATED CASES:

26 SIMKE, CHODOS, SILBERFELD & SOLL, INC.
27 BY: ROMAN M. SILBERFELD, ESQ.
6300 Wilshire Boulevard
Suite 9000
28 Los Angeles, California 90048

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FLD 00003033

1 FOR PLAINTIFFS, DOROTHY ST. JACQUE, ETC., ET AL.; AND
2 ALL RELATED CASES:

3 ROSE, KLEIN & MARIAS
4 BY: DAVID A. ROSEN, ESQ.
5 888 West Sixth Street
6 Second Floor
7 Los Angeles, California 90017

8 FOR PLAINTIFFS, DOROTHY ST. JACQUE, ETC., ET AL.; AND
9 ALL RELATED CASES:

10 MCCARTHY, JOHNSON & MILLER
11 BY: JAMES E. MILLER, ESQ.
12 22 - 2nd Street
13 San Francisco, California 94105

14 (Appearing on behalf of the law offices of
15 GRISHAM & CANNON, 120 East Ocean Boulevard,
16 Long Beach, California 90802.)

17 FOR DEFENDANT, THE FLINTKOTE COMPANY:

18 LaFOLLETTE, JOHNSON, SCHROETER & DeHAAS
19 BY: RUDOLF H. SCHROETER, ESQ.
20 THEODORE A. CHUN, ESQ.
21 320 North Vermont Avenue
22 Los Angeles, California 90004

23 LaFOLLETTE, JOHNSON, SCHROETER & DeHAAS
24 BY: DESTIE OVERPECK, ESQ.
25 THOMAS R. PORT, ESQ.
26 100 Van Ness Avenue
27 Nineteenth Floor
28 San Francisco, California 94102

THOMPSON, HINE & FLORY
BY: BARBARA J. ARISON, ESQ.
National City Bank Building
Cleveland, Ohio 44114

SHIELD & SMITH
BY: J. LAWRENCE JUDY, ESQ.
1200 Wilshire Boulevard
Suite 400
Los Angeles, California 90017

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1 FOR DEFENDANT, ARMSTRONG WORLD INDUSTRIES, INC.:

2 GUDMUNDSON, SIGGINS & STONE
3 BY: DAVID ISAAC OGREN, ESQ.
4 Russ Building
235 Montgomery Street
San Francisco, California 94104

5 FOR DEFENDANT, U.S. GYPSUM:

6 LAW OFFICES OF
7 JOHN J. MURRAY
8 BY: VICTOR Y. WOO, ESQ.
JOHN J. MURRAY, ESQ.
9 First Interstate Bank Building
702 Marshall
Suite 250
10 Redwood City, California 94063

11 FOR DEFENDANT, RAYMARK INDUSTRIES, INC.:

12 FISHER & HURST
13 BY: THOMAS A. TRAPANI, ESQ.
RAOUL A. RENAUD, ESQ.
14 Four Embarcadero Center
San Francisco, California 94111

15 FOR DEFENDANT, NORTH AMERICAN ASBESTOS CORPORATION:

16 ERICKSEN, ARBUTHNOT, McCARTHY,
KEARNEY & WALSH, INC.
17 BY: TOM TAGLIARINI, ESQ.
535 Mira Vista Avenue
18 Oakland, California 94610

19
20 FOR DEFENDANT, OWENS-CORNING FIBREGLAS CORPORATION:

21 POPELKA, ALLARD, McCOWAN & JONES
22 BY: LYNN RENNERT, ESQ.
RICHARD B. HECHLER, ESQ.
23 Lloyds Bank Building
One Almaden Boulevard
24 Eighth Floor
San Jose, California 95113

25
26
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1 FOR DEFENDANT, AC&S, INC.:

2 VAN DE POEL, STRICKLAND AND HAAPALA
3 BY: EDWARD M. PRICE, ESQ.
4 2030 Franklin Street
5 Fifth Floor
6 Oakland, California 94612

7 FOR DEFENDANT, LAKE ASBESTOS OF QUEBEC, LTD.:

8 PETTIT & MARTIN
9 BY: D. WAYNE JEFFRIES, ESQ.
10 101 California Street
11 Thirty-Fifth Floor
12 San Francisco, California 94111

13 FOR DEFENDANT, H. K. PORTER:

14 LAW OFFICES OF WILLIAM J. DUKE
15 BY: THOMAS JANISCH, ESQ.
16 CHARLENE P. ROSACK, ESQ.
17 433 California Street
18 Suite 330
19 San Francisco, California 94104

20 FOR DEFENDANT, KEENE CORPORATION:

21 MULLALLY & CEDERBORG, INC.
22 BY: LAURIE K. ANGER, ESQ.
23 1405 Central Building
24 Oakland, California 94612

25 FOR DEFENDANT, GAF CORPORATION:

26 McCUTCHEN, DOYLE, BROWN & ENERSEN
27 BY: J. BRADLEY O'CONNELL, ESQ.
28 Three Embarcadero Center
San Francisco, California 94111

FOR DEFENDANT, PITTSBURGH CORNING CORPORATION:

HASSARD, BONNINGTON, ROGERS & HUBER
BY: ROBERT M. HAMBLETT, ESQ.
SARA A. KELLER, ESQ.
3500 Wells Fargo Building
44 Montgomery Street
San Francisco, California 94104

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1 FOR DEFENDANT, WESTERN MacARTHUR:

2 HARDIN, COOK, LOPER, ENGEL & BERGEZ
3 BY: ROBERT DOUGLAS EASSA, ESQ.
4 DANIEL K. OHL, ESQ.
5 2300 Ordway Building
6 One Kaiser Plaza
7 Oakland, California 94612

8 FOR DEFENDANT, NICOLET, INC.:

9 MCKAY AND BYRNE
10 BY: BOBBIE J. KOSZDIN, ESQ.
11 3250 Wilshire Boulevard, Suite 603
12 Los Angeles, California 90010

13 FOR DEFENDANT, FIBREBOARD CORPORATION:

14 CHASE, ROTCHFORD, DRUKKER & BOGUST
15 BY: RICHARD S. KEMALYAN, ESQ.
16 700 South Flower Street
17 Fifth Floor
18 Los Angeles, California 90017

19 FOR DEFENDANT, EAGLE PICHER INDUSTRIES, INC.:

20 WININGHAM, ROBERTS, FAMA,
21 THOMPSON AND COOPER
22 BY: JOHN R. WALLACE, ESQ.
23 RONALD MILLER, ESQ.
24 425 California Street
25 Fourth Floor
26 San Francisco, California 94104

27 The following proceedings were thereupon had, and
28 the following proceedings were thereupon had, to-wit:

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1 (The following attorneys were present for the
2 deposition on Thursday, April 12, 1984:

3 CHRISTOPHER E. GRELL, ESQ.

4 ROMAN M. SILBERFELD, ESQ.

5 DAVID A. ROSEN, ESQ.

6 JAMES E. MILLER, ESQ.

7 RUDOLF H. SCHROETER, ESQ.

8 THEODORE A. CHUN, ESQ.

9 DESTIE OVERPECK, ESQ.

10 THOMAS R. PORT, ESQ.

11 BARBARA J. ARISON, ESQ.

12 J. LAWRENCE JUDY, ESQ.

13 DAVID ISAAC OGREN, ESQ.

14 VICTOR Y. WOO, ESQ.

15 THOMAS A. TRAPANI, ESQ.

16 TOM TAGLIARINI, ESQ.

17 LYNN RENNERT, ESQ.

18 EDWARD M. PRICE, ESQ.

19 D. WAYNE JEFFRIES, ESQ.

20 THOMAS JANISCH, ESQ.

21 CHARLENE P. ROSACK, ESQ.

22 LAURIE K. ANGER, ESQ.

23 J. BRADLEY O'CONNELL, ESQ.

24 ROBERT M. HAMBLETT, ESQ.

25 SARA A. KELLER, ESQ.

26 ROBERT DOUGLAS EASSA, ESQ.

27 BOBBIE J. KOSZDIN, ESQ.

28 RICHARD A. KEMALYAN, ESQ.

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1 JOHN R. WALLACE, ESQ.;
2 RONALD MILLER, ESQ.; AND
3 DANIEL K. OHL.)

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5
6
7 ARTHUR R. HOOKER

8 being first duly sworn, testified as follows:

9
10 EXAMINATION BY MR. GRELL

11 MR. GRELL: Q. Good morning, Mr. Hooker.

12 My name is Christopher Grell, and I represent the plaintiffs
13 represented in the Sterns, Brown & Finney consolidated San
14 Francisco cases in both San Francisco and Alameda. I'm
15 going to be asking you a few questions today, as I imagine
16 the other attorneys present will be doing, as well.

17 To start off, would you please state your full name
18 and business address, home address for the record, please?

19 A. Arthur Riverious, R-i-v-e-r-i-o-u-s, Hooker, Jr.

20 My business address is 580 Decker Drive, Irving, Texas,
21 zip 75062. My home address is 7051 Orchid -- as in flower --
22 Lane, Dallas, Texas, 75230.

23 Q. Could you also give us your business phone number,
24 please?

25 A. Yes. 214-659-9800.

26 Q. And your home phone, please?

27 A. 214-692-6428.

28 Q. Mr. Hooker, before we begin, I'd like to know, have

1 you had a chance to talk to your attorney about what a
2 deposition is?

3 A. Yes, I have.

4 Q. Have you ever had a deposition taken before?

5 A. No.

6 Q. You understand that I'll be asking you questions,
7 and the court reporter will be taking everything down. And
8 she has to take down oral statements, so she can't take
9 down nods of the head.

10 A. Yes, sir.

11 Q. If I ask you a question that you don't understand,
12 please tell me and I'll try to rephrase it so that it's
13 clear.

14 A. Will do.

15 Q. Also, I imagine your counsel will be making a number
16 of objections, maybe, during the course of the deposition.

17 MR. SCHROETER: Depends on you.

18 MR. GRELL: Depends on me. Right.

19 Q. I assume that unless you're instructed not to answer,
20 that he's just making an objection to preserve the record
21 and that you can still answer the question.

22 A. I will make every effort to do so.

23 Q. Before we begin, do you have any questions that you
24 might like to ask?

25 A. No, sir.

26 Q. Before the deposition started today, your counsel
27 said that you did not bring any documents pursuant to the
28 deposition notice that was served on Flintkote; is that

1 correct?

2 A. To this meeting, no.

3 Q. It's also my understanding that all the documents
4 have already been produced pursuant to another document
5 request that was served on Flintkote.

6 A. I can't answer that question. I am not familiar
7 with all the documents.

8 Q. Did you make any effort prior to coming to today's
9 deposition to look for documents that were requested in
10 the deposition notice that were served on you?

11 A. Personally, I did not do it. My legal counsel has
12 done some work on that.

13 MR. SCHROETER: Counsel, as you can appreciate,
14 such matters typically are counsel's problem, and I have
15 advised Mr. Hooker, and I also mentioned to you before this
16 deposition began, that each category defined in your
17 duces tecum notice for this deposition was likewise requested
18 in a prior production request in which, prior to that
19 request, even more was requested and was requested for
20 this deposition, and that all of that has been dealt with
21 previously. And I suspect that it is upstairs in this
22 building in your offices somewhere. So we did not bring
23 anything, for that reason, not having 15 briefcases.

24 MR. GRELL: I understand that, Counsel.
25 My point in this line of questioning is to find out
26 whether Mr. Hooker personally reviewed any of his files
27 to see if there were any additional documents that may
28 have escaped your search for documents responsive to our

1 request.

2 THE WITNESS: If I did, it was by request
3 of counsel, and I wouldn't have known how to identify them
4 with this case involved.

5 MR. GRELL: Q. Have you ever been asked
6 by your attorney to review your files to see if you had
7 any documents that may be responsive to the document requests
8 that have been served on Flintkote?

9 A. I would have to ask counsel to answer that. They've
10 asked me to review my files from time to time, and I have
11 been responsible for the review of files. I'm not exactly
12 certain what your question is.

13 Q. My question is: Have you produced the documents
14 from your files at the request of your attorneys?

15 MR. SCHROETER: When you say "your files,"
16 Counsel, you mean --

17 MR. GRELL: Personal files.

18 MR. SCHROETER: -- Art Hooker's personal files
19 that he keeps within so many feet of his desk, or his files
20 that he may have had over the years as he had different jobs?

21 MR. GRELL: His personal files for the
22 time being related to the work at Flintkote.

23 THE WITNESS: My asbestos files are set
24 aside in my office for review by anybody, and on occasion,
25 in responding to inquiries from counsel about specific
26 cases or in reviewing interrogatories or requests for
27 admissions, I review my files from time to time.

28 MR. GRELL: Q. And are documents in those

1 files that you review pulled out, copied and produced
2 pursuant to those requests by your counsel?

3 A. I don't personally pull them.

4 Q. Do you know if the documents in your files have
5 been copied?

6 A. I'm not aware of any that are in my files that have
7 been copied.

8 Q. Before coming to today's deposition, did you review
9 any documents to help refresh your recollection?

10 A. Yes.

11 Q. What documents did you review?

12 A. Will you describe them, please, Counsel?

13 MR. SCHROETER: I think that would be fair.
14 We went generally -- not necessarily to review or
15 refresh recollection -- but just to acquaint Mr. Hooker
16 with what has gone on here, and this is directly responsive
17 to your question, and I can answer it. He cannot.

18 We've gone together over records that your office
19 chose from among those that have previously been produced
20 for the Cartwright office. We call that our Sterns set
21 as opposed to our Cartwright set. And the Sterns set is
22 what we've looked at together, and Mr. Hooker wouldn't
23 know how to describe it, as I just now did.

24 MR. GRELL: Q. But do you recall what
25 documents from the Sterns set you reviewed to help refresh
26 your recollection?

27 A. There must have been hundreds of them. I cannot
28 identify them in total.

1 Q. I appreciate that.

2 Did you review any documents from the Kazan-Kilbourne
3 set or any other set?

4 A. Again, I'd have to defer to counsel. I don't
5 know where these documents I've reviewed specifically came
6 from.

7 MR. SCHROETER: Again, Counsel, the Sterns
8 set, which I just identified, that we together, he and I,
9 looked at, somebody else's set may include in part some of
10 the set that you have chosen. I am not prepared to say
11 that, either, just now.

12 MR. GRELL: Well, I think I'm entitled
13 to know what documents the witness has reviewed to help
14 refresh his recollection. To that extent, if the documents
15 haven't been produced for us but they have been produced
16 for somebody else, then I think I'm entitled to know what
17 those documents are.

18 MR. SCHROETER: I'll say, again, that what
19 he has reviewed with me -- because I was the one that was
20 with him when he did it -- were the set that you have,
21 Counsel --

22 MR. GRELL: I understand that.

23 MR. SCHROETER: -- as I've previously described
24 it. And it was an overview, and, of course, your set may
25 include things that were elsewhere produced. But that's
26 not under debate now. Your entire set is the one that we
27 physically had together to look at.

28 MR. GRELL: And no other set of additional

1 documents were reviewed?

2 MR. SCHROETER: And no other set, right.

3 MR. ROSEN: Excuse me for a second. Just
4 so it's clear on the record, Counsel is saying that you
5 reviewed each and every document which was produced pursuant
6 to the Sterns notice; is that correct?

7 MR. SCHROETER: I did not say that. I said
8 that we did an overview review of the Sterns set of
9 documents that the Sterns office chose to copy from among
10 all of those documents which we had produced for the
11 Cartwright office.

12 I'll ask counsel from the Sterns office, is that a
13 clear delineation of the set of documents?

14 MR. GRELL: Yes.

15 MR. SCHROETER: In fact, to go even further,
16 our office, with the kind permission of the Sterns office,
17 copied their set, so that we would know what they had. And
18 we --

19 In fact, Mr. Hooker and I looked at that set,
20 which the Sterns office was kind enough to let us copy, so
21 that we now have a copy of what they have. The Sterns
22 office, in turn, has a subset of what the Cartwright office
23 has. The large subset looks to me like 80 percent of
24 what Cartwright has. And the only documents that
25 Mr. Hooker in my presence reviewed with me were excerpts
26 from that now thoroughly well-defined Sterns set.

27 MR. GRELL: Q. Did you review any
28 documents to help refresh your recollection that were

1 withheld from the Sterns production, that you're aware of?

2 MR. SCHROETER: Assuming that there was any
3 withholding.

4 MR. GRELL: Well, there was some with-
5 holding, Counsel.

6 MR. SCHROETER: And again, Counsel, I point
7 out to you that the Sterns set is one that you chose from
8 the Cartwright set, not one that was subject to withholding.

9 MR. GRELL: I can show you pieces of paper
10 where you have withheld documents from our document request.

11 Q. And my question to the witness is: Did you review
12 any documents to help refresh your recollection that were
13 withheld from production based on a claim of privilege?

14 A. Not to my knowledge.

15 MR. SCHROETER: I'll corroborate that, since
16 I was there.

17 MR. GRELL: Q. Were you read from any
18 documents that were withheld from production based on the
19 claim of privilege that helped refresh your recollection?

20 A. Not to my knowledge.

21 Q. Mr. Hooker, will you please state your present
22 employer and position?

23 A. My position is manager of purchasing, Genstar,
24 G-e-n-s-t-a-r, Building Materials Company.

25 Q. Does Genstar own Flintkote?

26 A. Genstar -- Flintkote is a wholly owned subsidiary
27 of Genstar, Incorporated.

28 Q. Could you define your responsibilities as

1 manager-purchaser of Genstar?

2 A. Negotiating contracts, administering purchasing
3 policy for our manufacturing plants, responsible for all
4 of our forms, management. I establish, in some cases,
5 purchasing policy. In other cases, I make recommendations
6 for purchasing policy.

7 Q. Anything else? Any other areas of responsibility
8 that you can think of?

9 A. One of my major responsibilities has to do with
10 handling the re -- or being responsible for, call it if you
11 will, editing and signing the requests for admissions,
12 responses to interrogatories.

13 MR. SILBERFELD: Eighty percent?

14 THE WITNESS: A good portion of my time is
15 spent doing that.

16 MR. GRELL: Q. How long have you been
17 manager-purchaser for Genstar?

18 A. Genstar acquired Flintkote Company in 1980 -- it
19 was either December of '80 or January of '81. And at that
20 time, I became a Genstar employee.

21 Q. Before working for Genstar, where were you employed?

22 A. I've been -- I was originally employed by the
23 Flintkote Company in September of 1946.

24 Q. Starting in 1946, what was the first position you
25 held with Flintkote?

26 A. Sales trainee.

27 Q. And how long were you a sales trainee?

28 A. Approximately one year.

1 Q. And after that, you went to sales, I presume?

2 A. I was assistant sales manager for the industrial
3 products department at the Vernon, California, plant.

4 Q. What was your responsibility as assistant manager
5 for the sales department?

6 A. Office administration and responsible for sales to
7 selected segments of our customers by industry.

8 Q. What selected segments were you responsible for?

9 A. Automotive, railroads, some sales responsibility at
10 the local and federal government level.

11 Q. When you say some responsibility at the federal
12 government level, what do you mean by that?

13 A. I've called on Air Force bases, the purchasing
14 departments. And Air Force bases is an example.

15 Q. What about federal shipyards?

16 A. I don't recall of ever calling on -- I'm not certain.
17 I can't remember whether I did or did not call. I have
18 some responsibility in the placement of bids for our
19 finished products for sale to military establishments,
20 and included in those military establishments would be
21 the naval shipyards. I don't recall of ever calling on a
22 naval shipyard specifically.

23 Q. Would you have any records that would show what
24 sales meetings you might have had or what contacts you might
25 have had with the various federal agencies that you were
26 dealing with back then?

27 A. No, sir.

28 Q. Did you ever have contact with private shipyards?

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1 A. I don't recall of calling on a private -- any
2 shipyard, physically calling on one.

3 Q. Would not?

4 A. I did work -- From the administrative point of view,
5 in the office as assistant sales manager, I was bidding on
6 the sale of the product to various establishments, some of
7 which could have been shipyards. I don't specifically
8 remember. You're asking me to recall 35 years ago. I just
9 don't remember specifically.

10 MR. SCHROETER: That answers the question
11 more than enough.

12 MR. GRELL: Q. How long were you assistant
13 manager?

14 A. It was either 1949 or '50, I was reassigned.

15 Q. Going back to that period when you were assistant
16 manager involved in industrial product sales, what products
17 were you involved with in that particular job?

18 A. Would have been defined -- just defined in our
19 company as industrial products.

20 Q. Let's narrow it down a little bit. What industrial,
21 if any, asbestos products were you involved in during that
22 period when you were assistant manager in 1947?

23 A. Roof coatings, adhesives, weatherproof and moisture-
24 proof protection coatings, highway joint ceiling compounds,
25 commercial decorative paint, asphaltting paint compounds,
26 and general coatings.

27 Q. Were you involved with asbestos floor tile?

28 A. Not at that time.

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1 Q. So you worked as assistant sales manager from around
2 '47 to '49; is that correct?

3 A. Yes.

4 Q. In 1949, I assume you were promoted.

5 Let me rephrase the question.

6 What was your next position after you worked as
7 assistant sales manager?

8 A. I was administrative assistant to the general
9 manager of the Pioneer Division of the Flintkote Company.

10 Q. Could you describe what responsibilities you had
11 in that particular position?

12 A. Approximately three years as the supervisor for
13 priority and price controls related to the Korean War for
14 the Pioneer Division of the Flintkote Company.

15 Q. Did your responsibilities as administrator change
16 completely from your responsibilities as assistant manager,
17 or did you carry on any of the same jobs that you were
18 doing as assistant manager?

19 A. It changed completely.

20 Q. So as administrator, were you still involved in the
21 administration and the bidding process of sales of industrial
22 products?

23 A. No, sir.

24 Q. You said you did that for three years. So that
25 would be from about 1949 to '52, or thereabouts?

26 A. Yes, sir.

27 Q. I know it goes back a long time, so I'm not trying
28 to pin you down on the exact dates.

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1 A. The answer to the question is: When the Korean War
2 was over, priority price controls were not required.

3 MR. SCHROETER: So he incorporates the end
4 of the war by reference.

5 MR. GRELL: Whenever that was.

6 Q. After that, what was your next position?

7 A. I was assigned as assistant director of purchasing
8 for the Pioneer Division of the Flintkote Company.

9 Q. And, again, can you describe your job responsibilities
10 as assistant director of purchasing for the Flintkote
11 Pioneer Division?

12 A. The overall administration, contract negotiation,
13 lower level policy decisions on source of supply, and
14 administration of the purchasing office in Vernon and all
15 plants in the Pioneer Division.

16 Q. Did you have any responsibility for sales of Flintkote
17 products?

18 A. Only as it related to surplus and excess materials
19 from our plant.

20 Q. What kind of surplus and excess materials would be
21 sold by Flintkote?

22 A. Any raw material that became obsolete for change in
23 a formula, material that was defective for some reason and
24 did not fit into the finished product category that might
25 have been of some value to some other company. Anything but
26 our finished products.

27 Q. When you were assistant director of purchasing and
28 you had some responsibility for sales, did you ever sell

1 asbestos fiber, or was it being used --

2 A. As --

3 MR. SCHROETER: Let him finish the question.
4 He was not done.

5 MR. GRELL: Q. During that time period
6 when you were assistant director-purchaser, starting in
7 1952 to the end of the Korean War, were you ever involved
8 in the sale of asbestos that Flintkote decided it wasn't
9 going to use?

10 MR. SCHROETER: Objection. Vague. Do you
11 mean the sale of asbestos fiber which the Flintkote Company
12 had maybe intended to use but somehow didn't use that and
13 wanted to get rid of it?

14 MR. GRELL: Yes.

15 THE WITNESS: I don't recall of any such
16 transaction.

17 MR. GRELL: Q. Would you have any records
18 that might reflect whether or not those sales occurred?

19 A. No, sir.

20 Q. Do you know if anyone else would have any records?

21 A. I don't know where they would be.

22 Q. How long did you work as assistant director of
23 purchasing?

24 A. Until 1956.

25 Q. I'd like to backtrack just a little bit and ask
26 you, you said that you worked for the Flintkote Pioneer
27 Division. Could you explain the corporate relationship
28 between Flintkote and the Pioneer Division, who their

1 parent corporation was, if any?

2 A. The Flintkote Company was the parent corporation.

3 Q. And that was from 1949 to '52?

4 A. Yes.

5 Q. Was that also the case from the time you started
6 with Flintkote, to your knowledge?

7 A. The relationship of the division of the company?

8 Q. Yes.

9 A. Yes, sir.

10 Q. Do you know how long Flintkote has been in business?

11 A. If I remember correctly, it was incorporated in the
12 State of Massachusetts in 1918, something -- in that time
13 span.

14 Q. How long -- If you've answered this, I apologize,
15 but I don't have this -- How long did you work as assistant
16 director of purchasing?

17 A. Until 1956.

18 Q. That's right.

19 What job did you have in 1956?

20 A. Became director of purchasing.

21 Q. Would you describe your responsibilities as director
22 of purchasing?

23 A. Overall responsibility for administration of the
24 total purchasing function for the Pioneer Division of
25 The Flintkote Company at all plant levels -- all plant
26 locations.

27 Q. Any other responsibilities, other than purchasing
28 responsibilities?

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1 A. No, sir.

2 Q. Were you involved in any sales when you were the
3 director of purchasing?

4 A. The only sales I would have been involved in would
5 be surplus or disposable materials.

6 Q. Do you recall, when you worked as director of
7 purchasing, selling any fiber that Flintkote had purchased
8 and were not going to use?

9 A. Not specifically. But I did sell surplus materials.

10 Q. But you have no knowledge of selling asbestos fibers;
11 is that correct?

12 A. I don't have a specific recollection.

13 Q. Would you know of any records you might have that
14 would help refresh your recollection?

15 A. I know of none retained at this time.

16 Q. Would you know if the corporation has any records
17 concerning sales during that time?

18 A. I don't personally know of any records that have
19 been maintained.

20 Q. You said earlier that part of your job today is to
21 respond to requests for admissions and requests for
22 production of documents. You also, I assume, signed a lot
23 of verifications.

24 A. Uh-huh.

25 Q. Have you directed people or have you yourself gone
26 through Flintkote's records to see if there are any records
27 concerning the sales of asbestos products, starting back
28 to the time when Flintkote first got involved in the

1 business?

2 MR. SCHROETER: Objection. Compound. Do you
3 mean whether he directed people or whether he did it himself?

4 MR. GRELL: Let's take it one step at a
5 time.

6 Q. Have you gone back and looked through Flintkote's
7 records to see if they have any documents that would show
8 what kind of asbestos sales occurred?

9 A. I have not done it personally.

10 Q. Have you directed other people to do that kind of a
11 search in response to various document requests that have
12 been served on Flintkote in the course of this litigation?

13 MR. SCHROETER: Excuse me. Don't answer that.

14 Are you assuming in your question that, in fact, a
15 request has been made by anyone to produce information on
16 asbestos or surplus asbestos sold by The Flintkote Company
17 to others?

18 MR. GRELL: I believe our request asks
19 you for sales information concerning asbestos.

20 MR. SCHROETER: Surplus asbestos fiber?

21 MR. GRELL: Asbestos fiber, surplus,
22 surplus if it's asbestos fiber. Doesn't seem much of a
23 difference.

24 THE WITNESS: Would you repeat the question?

25 MR. GRELL: Q. You said that you have
26 not personally gone back in Flintkote's records to see
27 if there were any documents that would reflect sales of
28 asbestos since the time you started working fo the company.

1 Now I'm asking you, have you directed anybody to do
2 such a search?

3 A. No.

4 Q. Do you know if your lawyers have directed somebody
5 to do such a search?

6 MR. SCHROETER: Yes or no. Either you know or
7 you don't.

8 THE WITNESS: Yes, it has been done.

9 MR. GRELL: Q. Do you know who has done
10 that search?

11 A. I can only define it as legal counsel.

12 Q. Do you know the names of anybody that has gone
13 through your files to try to pull out information?

14 A. I don't know of anybody that's gone through my files,
15 other than myself.

16 Q. Do you know the names of anybody that's gone through
17 other people at Flintkote who may have documents responsive
18 to the request?

19 A. Yes.

20 Q. Who are those people?

21 A. Seth Smith is one gentleman. I believe that Tony
22 McCloud.

23 Q. Excuse me. Who is Seth Smith? Is he employed by --

24 A. He was in our legal department, corporate legal
25 department.

26 Q. Do you know where Seth Smith is today?

27 A. He's with a law firm. I can't name it.

28 Q. Do you know where the law firm is located?

- 1 A. New York City.
- 2 Q. You started to mention somebody else who's done
3 this.
- 4 A. Tony McCloud.
- 5 Q. Who is Tony McCloud?
- 6 A. He was chief counsel and Seth Smith's boss.
- 7 Q. Do you know where Mr. McCloud is today?
- 8 A. I do not.
- 9 Q. Does Flintkote keep personnel records on former
10 employees, to your knowledge?
- 11 A. There are records kept, yes.
- 12 Q. Do you know who would be responsible for maintaining
13 the personnel files for Flintkote?
- 14 A. The -- I'm trying to think of his title -- corporate
15 personnel director.
- 16 Q. Do you know that person's name?
- 17 A. Clifford Carr.
- 18 Q. Is it C-a-r?
- 19 A. C-a-r-r.
- 20 Q. Do you know anybody else who has done a search of
21 Flintkote's documents?
- 22 A. Legal counsel outside of the company.
- 23 Q. Is it fair to say you're not aware of anybody inside
24 the company that has been asked to do a search of the
25 files to find out if they have any documents responsive
26 to our request for production of documents?
- 27 A. I can't name them. I know it's been done, but --
- 28 Q. How long were you director of purchasing for the

1 Flintkote Pioneer Division?

2 A. Six years. Until 1962.

3 Q. In 1962, what job did you take over?

4 A. I was transferred to the corporate office in New
5 York City as manager of trade relations.

6 Q. Could you define your responsibilities as manager
7 of trade relations?

8 A. In capsule form, best described as corporate
9 commercial relationship.

10 Q. Could you define that a little bit more specifically?

11 MR. JUDY: How about generally?

12 THE WITNESS: The Flintkote Company did
13 business with literally thousands of companies in the
14 United States, and some of them were by virtue of either
15 the products we sold or they sold or we manufactured. They
16 were interrelated between all of the divisions of The
17 Flintkote Company. And it was my responsibility to maintain
18 appropriate and satisfactory corporate relationships with
19 these companies.

20 MR. GRELL: Q. Are you familiar with the
21 defendants involved in the asbestos litigation?

22 MR. SCHROETER: Objection. That's asking too
23 much. If you would name them, please, he'll tell you.
24 He knows Flintkote is a defendant, but he has no reason to
25 know everybody else.

26 MR. GRELL: Q. As corporate officer,
27 manager of trade relations, did you have any responsibility
28 for keeping the relationship between Flintkote and, say,

1 Johns-Manville?

2 A. Yes, sir.

3 Q. What kind of responsibilities would you get involved
4 in with dealing with Johns-Manville?

5 A. During the course of my assignment as manager of
6 trade relations, we had a license from Johns-Manville to
7 manufacture asbestos cement pipe, in accordance with their
8 patented process. And there was know-how involved in their
9 supplying us with information in the operation of that plant.
10 There was just an ongoing relationship with Johns-Manville
11 at the corporate level, which -- some of which I got
12 involved in.

13 Q. Do you remember the names of people that worked for
14 Johns-Manville that you dealt with?

15 A. One of the men that I spent most of my time with,
16 who was my counterpart in Johns-Manville, his name was
17 Dick Amburg.

18 Q. Do you know if Mr. Amburg is still employed with
19 Johns-Manville?

20 A. He has been retired for some years.

21 Q. Do you know where Mr. Amburg lives?

22 A. In a Denver suburb.

23 Q. Anybody else at Johns-Manville that you recall
24 dealing with?

25 A. I'm trying to remember Mr. Amburg's predecessor.
26 I cannot recall his predecessor. I'm trying to answer
27 this question in terms of the time span we're talking about.

28 Q. It's 1962.

1 A. Yes, '62, and that assignment until 1967, for five
2 years.

3 Q. Do you know who your predecessor was before you
4 assumed responsibility for the corporate office of manager
5 of trade relations?

6 A. There was none.

7 Q. So this was a newly created position?

8 A. Yes, sir.

9 Q. Do you know why this position was created?

10 A. I was not involved in that decision.

11 Q. So other than Mr. Amburg, is it fair to say you
12 cannot remember any of the other people at Johns-Manville
13 that you worked with during this time period when you were
14 manager of corporate relations?

15 A. I can name them by job description only. I can't
16 remember their names specifically.

17 Q. Well, give the job description.

18 A. One of the gentlemen was the sales manager for
19 Canadian Johns-Manville. Another gentleman was their
20 purchasing -- director of purchasing.

21 I can add something. I thought of one name. The
22 sales manager for Canadian Johns-Manville was Noel Hendry.

23 Q. Do you know where Mr. Henry (sic) lives?

24 A. Hendry, H-e-n-d-r-y, Hendry.

25 I do not know where he is now.

26 Q. Anybody else that might come to mind?

27 A. No.

28 Q. Any other job descriptions, the types of people

1 that you recall working with?

2 A. Not in that time span, '62 to '67.

3 Q. Do you recall having any business relationships with
4 Owens-Corning Fibreglas?

5 A. Yes.

6 Q. And what was the relationship that you had with them?

7 A. As manager of trade relations, they were a customer
8 of more than -- Wait a minute. That's not true. Yes, they
9 were. They were a customer of more than one division in
10 the company, so I would coordinate sales relationships with
11 them.

12 And on the other side of the coin, they were a
13 supplier to several other -- several of our divisions, and
14 my counterpart in OCF as my prime contact.

15 Q. Who was that counterpart?

16 A. Dick Ringwald.

17 Q. Do you know where Mr. Ringwald is presently?

18 A. The last I heard, he was retired in Florida.

19 Q. Do you know where in Florida?

20 A. I don't know.

21 Q. You have no idea?

22 A. I don't know.

23 Q. Did you have any conversations with him in the past?

24 A. Not since he retired.

25 Q. Do you know when he retired?

26 A. I'd say ten years ago.

27 Q. Can you think of anybody else at OCF that you had
28 business dealings with during your job as corporate

1 relations manager?

2 A. Their purchasing agent.

3 Q. Do you know that person's name?

4 A. I'm reaching for it, trying to remember. I cannot
5 remember his name.

6 Q. Are there any other names of people that you can
7 recall?

8 A. No, sir.

9 Q. Did you have any relationships with H. K. Porter?

10 A. I did not, personally.

11 Q. So they were not one of the companies that you had
12 during your job as --

13 A. I can't recall of ever having any business
14 discussions with anybody in H. K. Porter.

15 Q. What about Raymark?

16 A. In that time span, no.

17 Q. Was the first time that you had corporate or
18 business relationships with other companies when you
19 assumed the position as manager of trade relations?

20 A. Restate that question.

21 Q. When you were working as a sales manager, assistant
22 manager, did you have smiliar kinds of involvement with,
23 say, J-M or Owens Corning Fibreglas, as you described as
24 having when you were corporate manager?

25 A. No.

26 Q. Do you know if Flintkote had business dealings with
27 Johns-Manville prior to 1962?

28 A. Yes.

1 Q. Do you know what kind of business relationship
2 existed between Flintkote and J-M before 1962?

3 A. We used their asbestos fiber, for instance, as an
4 item.

5 Q. Do you know how long you used their asbestos fiber
6 before 1962?

7 A. What?

8 Q. Let me rephrase the question.

9 Do you know when you first started using J-M asbestos
10 fiber in Flintkote operations?

11 A. I do not know when Flintkote first started using it.

12 Q. When's the first time it came to your knowledge?

13 A. When I became assistant manager -- assistant director
14 of purchasing for the Pioneer Division.

15 Q. So that would have been about 1952?

16 A. Yes, sir.

17 Q. Same thing. Do you know if Flintkote had relation-
18 ships with OCF, Owens-Corning Fibreglas, prior to 1962?

19 A. I cannot recall the date. At some point in time in
20 that era, either when I was assistant director of purchasing
21 or when I was director of purchasing, we started to buy
22 fiber, glass fiber from OCF. I can't remember the dates.

23 Q. Do you remember any other types of business dealings
24 that you had with OCF prior to 1962?

25 A. Yes, sir.

26 Q. What is that?

27 A. Again, I have to tell you that I'm not positive of
28 these exact dates. But in that time span, The Flintkote

1 Company was a distributor of Owens-Corning Fibreglas
2 insulation products.

3 Q. What time period is that that you're talking about?

4 A. 1960's. Could have been prior to that. Certainly
5 in the early '60's.

6 Q. Do you know what products Flintkote distributed
7 for OCF in the 1960's?

8 A. Roofing insulation, and what was commonly referred to
9 as insulation, and what was commonly referred to as
10 insulation batts and blankets.

11 Q. Do you know if any of those products contained
12 asbestos?

13 A. To my knowledge, no, they did not. To the best
14 of my knowledge, they did not.

15 Q. Do you know the names of those OCF products that
16 were distributed by Flintkote, other than the generic
17 name, blankets or --

18 A. Fibreglas was the copyrighted name for Owens-Corning
19 Fibreglas products.

20 Q. Would you have any records in your files, or are
21 you aware of any records that would show what kind of
22 Owens-Corning Fibreglas products were, in fact, distributed
23 by Flintkote?

24 A. I have none.

25 Q. Do you know of anyone who might have those records?

26 MR. SCHROETER: That calls for speculation,
27 Counsel.

28 Don't answer that.

1 MR. GRELL: It doesn't call for speculation.
2 I'm asking if he knows, Counsel.

3 THE WITNESS: I do not.

4 MR. GRELL: Q. So you said that when
5 you were working as the corporate relations officer, you
6 don't recall having any dealings with H. K. Porter at
7 that time or with Raymark; is that correct?

8 A. I do not, not in that time span.

9 Q. What about Celotex or Philip Carey Corporation?

10 A. I don't -- I don't know -- I cannot remember
11 whether I did or did not in that time span.

12 Q. Again, would you have any records that might help
13 refresh your recollection?

14 A. I would have no records.

15 Q. Do you know of anyone who might have such records?

16 A. No, I do not.

17 Q. Do you recall having any business relationship
18 with Unarco?

19 MR. SCHROETER: You're speaking for the
20 five-year period beginning in '62?

21 MR. GRELL: Yes. We're limiting it now
22 to the time that he was corporate manager for commercial
23 relations.

24 THE WITNESS: Counselor, I'm having
25 difficulty trying to remember in what time span I had some
26 contact with people you're identifying. I just don't know.
27 Unarco, if I am correct, was associated with Lake Asbestos
28 in someway, I believe.

1 MR. SILBERFELD: Ask him.

2 THE WITNESS: I don't know.

3 MR. SCHROETER: If that's the best you can
4 say, don't struggle.

5 THE WITNESS: I don't know.

6 MR. GRELL: Q. Just so the record is
7 clear, I'm not trying to mislead you. Do you recall
8 ever, during your time with Flintkote, having a corporate
9 relation with H. K. Porter?

10 A. No, sir.

11 Q. Do you ever, during the time you've worked at
12 Flintkote or Genstar, recall ever having a relationship
13 with Raymark or Raybestos-Manhattan?

14 A. Yes, sir.

15 Q. When was the first time you started to develop a
16 relationship with Raybestos-Manhattan?

17 MR. TRAPANI: I'm going to object to that
18 as vague. Are you using "you" generically?

19 MR. GRELL: I'm talking about "you," as
20 Flintkote.

21 MR. SCHROETER: Thank you, fellow counsel,
22 for your objection, because I had taken that to be a
23 question directed personally to Mr. Hooker. And I think
24 he has answered the question so far with respect to himself
25 and his work in the corporate office as corporate relations
26 manager.

27 So if you're now switching gears and you're asking
28 him companywide, make it plain.

1 MR. GRELL: I'm asking for his knowledge.

2 MR. SCHROETER: Even that, you might specifi-
3 cally ask, so he will not be misled. I know you're not
4 trying to, but try not to.

5 MR. JAMES MILLER: Chris, is this careerwide?
6 That's what you're asking?

7 MR. GRELL: Yes.

8 THE WITNESS: If I may, may I ask you please
9 to restate the question?

10 MR. GRELL: Q. Sure.

11 You've been employed by Flintkote from 1946,
12 basically, up to the present time now, true?

13 A. Yes, sir.

14 Q. We were talking earlier about commercial relationships
15 during the period of 1962 to 1967 when you were working as
16 a corporate relations officer. And during the earlier
17 line of questions, I asked you if, during the period of
18 time, you had any corporate relations with H. K. Porter,
19 and you said you did not during that time period.

20 Now I'm asking you, do you recall, in your position
21 at Flintkote, ever having any kind of corporate dealings
22 with H. K. Porter?

23 A. No, sir.

24 Q. Same thing with Raymark. I asked you earlier if
25 you had any corporate relations with them, and you said no.

26 A. Corporate relationships, no.

27 Q. Did you have personal relationships with Raybestos-
28 Manhattan?

1 A. Only as a salesman.

2 Q. What relationship did you have as a salesman with
3 Raymark?

4 A. Raybestos-Manhattan, in those days, I called on them
5 as a salesman for asbestos fiber.

6 Q. So this was before 1962?

7 A. No, it was after.

8 Q. Well then, we'll get to that.

9 A. I'm sorry, Counselor.

10 Q. I know we're trying to cover many years, and I'm
11 trying to keep it straight.

12 A. I'm having trouble defining whether your questions
13 are within a certain time span or the total time I've worked
14 for the company. I'm having trouble.

15 Q. Earlier my questions were related to the time span
16 which you had the job as corporate commercial officer.

17 A. Yes, sir.

18 Q. I'm trying to shorten it up a little bit by trying
19 to find out about the entire period of time. But we're
20 going back now to the time period when you were the corporate
21 relations officer.

22 During that time, you did not have any business
23 relationships with Raymark; is that correct?

24 A. Not that I recall.

25 Q. And I understand that you said earlier that you don't
26 recall having any relationships with Celotex.

27 A. No, sir.

28 MR. TRAPANI: Objection. I believe that

1 misstates his testimony.

2 MR. GRELL: Q. Do you recall having any
3 business relationships with Celotex or Philip Carey during
4 the time that you worked as commercial corporate relations
5 officer?

6 A. The two -- Am I correct you're identifying the two
7 companies, Philip Carey and Celotex? Is that the two
8 companies you've identified?

9 Q. Yes.

10 A. I don't recall of any -- in that time span -- of
11 any contacts that I had.

12 Q. What about with Unarco?

13 A. None.

14 Q. What about with Fibreboard Corporation?

15 A. In that time span, I don't recall of any.

16 Q. What about with Pittsburgh Corning?

17 A. None that I remember.

18 Q. Armstrong?

19 A. I can't recall of any.

20 Q. Eagle Picher?

21 A. None.

22 Q. Keene Corporation?

23 A. None.

24 Q. What about GAF?

25 A. None that I recall.

26 Q. Ruberoid?

27 A. Now Counselor, I have a problem. At some point
28 in time, Ruberoid became part of GAF, and I don't --

1 Q. I've got the same problem.

2 A. I've got a problem. I don't know how to answer
3 the question. Not to the best of my knowledge. Again,
4 at some point in time, I had contact with Ruberoid. But
5 I don't know. I can't remember the years.

6 Q. What about Nicolet?

7 A. Not at that point in time.

8 Q. After 1967, what did you do for Flintkote?

9 A. Manager of national accounts for Hankins Container
10 Division.

11 MR. JAMES MILLER: Would you repeat that, please?

12 THE WITNESS: Manager of national account
13 sales for Hankins, H-a-n-k-i-n-s, Container Division.

14 MR. GRELL: Q. Is that company affiliated
15 with Flintkote in any way?

16 A. Not now.

17 Q. Was it at the time?

18 A. Yes, sir.

19 Q. What was that business about?

20 A. Its primary product was corrugated shipping
21 containers.

22 Q. And what were your responsibilities as manager of
23 national accounts for Hankins Container Division?

24 A. Coordinated the sales from some eleven plant
25 locations to major industrial users of corrugated shipping
26 containers.

27 Q. Any other products? Was that the only product?

28 A. Lamp wraps.

1 Q. Lamp wraps?

2 A. The little corrugated white sleeve that you buy
3 in the grocery store when you get a couple of light bulbs.

4 Q. How long did you have that position?

5 A. Two years.

6 Q. Until about 1969?

7 A. Yes, sir.

8 Q. And then what did you do?

9 A. I was transferred back to corporate as national
10 accounts sales manager.

11 Q. Could you repeat that?

12 A. I was transferred back to the corporate office as
13 national accounts sales manager.

14 I had other functions, too. I'll go on and tell
15 you what they were.

16 Q. You say you went back as national accounts sales
17 manager. I don't recall you saying earlier that you had
18 had that position at anytime earlier.

19 A. Pardon me. I went back. I physically went back,
20 because my office for Hankins Container was in Cleveland,
21 versus prior to that it had been in New York.

22 Q. So you went back to New York.

23 A. Yes, sir.

24 Q. And what company or division of Flintkote were
25 you working with?

26 A. At what point in time?

27 Q. When you left the Container Division.

28 A. Went back to the Flintkote corporate office.

1 Q. And that was back in New York?

2 A. Yes, sir.

3 Q. And that was in 1969, and you became national
4 accounts sales manager?

5 A. For The Flintkote Company.

6 Q. Could you --

7 A. I was -- I had other functions.

8 Q. What other functions did you have?

9 A. I was sales manager for Flintkote Mines, Limited,
10 Canada.

11 Q. Taking them one at a time, as national accounts
12 sales manager, what was your job responsibilities?

13 A. To coordinate the sales activities and relationships
14 with major industrial companies through all the divisions
15 of The Flintkote Company.

16 Define it in another way: We had, roughly, ten
17 operating divisions, and where two of those divisions
18 were doing business with a major industrial account, I
19 coordinated the sales from a corporate point of view.

20 Q. Any other responsibilities besides coordinating
21 sales?

22 A. Yes. I had the sales responsibility for Flintkote
23 Mines, Limited in Canada.

24 Q. I'm just now limiting it to your responsibilities
25 as national accounts sales manager.

26 A. That was the job; sales.

27 Q. Were you involved in policy, corporate policymaking?

28 MR. SCHROETER: Policy of what? Counsel,

1 I will tell him not to answer the question as posed. What
2 kind of policy? The objection is that it's vague when you
3 say policy.

4 MR. GRELL: Q. If you were involved in
5 any policymaking decisions. I'm not quite sure what
6 policymaking decisions --

7 MR. SCHROETER: You mean sales policy?

8 MR. GRELL: Sales policy, for example.

9 THE WITNESS: In a general way, yes.

10 MR. GRELL: Q. Were you involved in
11 policy regarding packaging of your products?

12 A. Not in that -- not in that job assignment.

13 Q. Were you involved in the policy regarding the safety
14 and welfare of Flintkote's employees?

15 A. No, sir.

16 Q. Moving to your responsibilities as sales manager
17 for Flintkote Mines, Limited, can you describe what your
18 job was for Flintkote Mines?

19 A. We manufactured and we, being Flintkote Mines,
20 Limited, manufactured and sold raw asbestos fiber throughout
21 the world. And I had that sales responsibility.

22 MR. SCHROETER: Clarifying the question: You
23 sold throughout the world, but you made it only in one
24 place.

25 THE WITNESS: That is correct.

26 MR. GRELL: Q. Where was Flintkote Mines,
27 Limited located?

28 A. Thetford Mines, Quebec, Canada.

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1 Q. Would you like to take a break, Mr. Hooker? We've
2 been going for an hour.

3 MR. SILBERFELD: I would.

4 THE WITNESS: Okay.

5 MR. GRELL: Anytime you get tired, just
6 let me know.

7 (Whereupon, there was a recess taken at 10:30
8 o'clock a.m., and the deposition resumed at 10:45 o'clock
9 a.m.)

10 MR. GRELL: Back on the record.

11 Q. Mr. Hooker, you said that you were sales manager for
12 Flintkote Mines, Limited. What was the corporate relation-
13 ship between Flintkote Mines, Limited and The Flintkote
14 Company?

15 A. Flintkote Mines, Limited was a wholly-owned
16 subsidiary of The Flintkote Company.

17 Q. You also said that, as sales manager for Flintkote
18 Mines, you manufactured and sold asbestos fiber throughout
19 the world. Do you remember any specific places that the
20 asbestos fiber was sold to that was mined for Flintkote
21 Mines?

22 A. Yes. You said places or companies?

23 Q. Companies.

24 A. Ataka is a trading company in Japan. I sold to
25 Ataka.

26 Mordilar Premchand, India.

27 Q. Can we start with the United States companies that
28 you sold to?

1 MR. SCHROETER: Well, do you want the others at
2 all? Start east, work back.

3 MR. GRELL: Let's start with United States
4 companies.

5 A. Raybestos-Manhattan, Celotex.

6 You're talking United States now?

7 Q. Yes.

8 A. Huxley Development, which was a distribution
9 company or a manufacturer's rep.

10 We're talking about United States now, correct?

11 Q. Right.

12 A. Those are the --

13 Q. Let me just ask you, did you sell any fiber to
14 Johns-Manville?

15 A. Not in the United States. I did not sell to them
16 in the United States.

17 Q. Did you sell to them in Canada?

18 A. Yes.

19 Q. When we're talking about sales, how long were you
20 sales manager for Flintkote Mines?

21 A. Three years, until the mines shut down in December
22 of '71.

23 Q. Do you know when the mines opened up?

24 A. 19 -- late '45, early '46.

25 Q. Are you familiar with the sales from 1946 to the
26 time you started as sales manager for Flintkote Mines?

27 A. In a general way. Not specifically.

28 Q. Do you know what sales were made to Flintkote Mines

1 during the period 1946 to the time you started working in
2 that position?

3 A. I do not know.

4 Q. Do you know who your predecessor was as sales manager
5 for Flintkote Mines?

6 A. Yes, sir.

7 Q. Who was that?

8 A. James Main.

9 MR. JAMES MILLER: Spell it, please.

10 THE WITNESS: M-a-i-n.

11 MR. GRELL: Q. Do you know where Mr. Main
12 presently lives?

13 A. He is retired in Florida, and dual residency in
14 New Jersey.

15 Q. Do you know his address?

16 A. I can give it to you.

17 Q. Would you give it to me, please?

18 A. I have my book here, because I figure I'll make
19 telephone calls. And in this book is his address
20 (indicating).

21 MR. SCHROETER: Give it to him.

22 MR. GRELL: Q. Is his middle initial
23 A., do you know?

24 A. I believe it is.

25 I have not the address but the phone numbers only.

26 Q. Could you give me his phone number?

27 A. Boka Raton, 305-997-8173.

28 MR. TRAPANI: Could you repeat that again,

1 please?

2 THE WITNESS: 305-997-8173

3 MR. TRAPANI: Thank you.

4 MR. GRELL: Q. And his New Jersey phone
5 number?

6 A. I stand corrected. It's not New Jersey, it's
7 Connecticut. 203-245-7230.

8 Q. Have you talked with Mr. Main in the past year or so?

9 A. Yes, sir.

10 Q. Have you met with Mr. Main?

11 A. No, sir.

12 Q. Do you know how long Mr. Main worked as sales
13 manager of Flintkote Mines?

14 A. I do not.

15 Q. Getting back to sales from Flintkote Mines, Limited,
16 Canada, you talked about Raybestos-Manhattan, Celotex,
17 Huxley Development, sales to J-M in Canada. Did you ever
18 sell asbestos fiber to Owens-Corning Fibreglas?

19 A. No, sir.

20 Q. H. K. Porter?

21 A. Not that I recall.

22 Q. Celotex?

23 A. And in what context now are we talking?

24 Q. U.S. sales.

25 A. U.S. sales, no.

26 Q. Did you have any foreign sales to Celotex?

27 A. The sale was made in Canada to Celotex. Their
28 Philip -- Now I'm confused, because I don't remember the

1 organization of Celotex. There's an interlocking
2 relationship between Celotex and Philip Carey, and I
3 can't remember what it is now, exactly, at what time.
4 So....

5 Q. When we're referring to sales, are you referring to
6 sales during the time that you worked as the sales manager
7 for Flintkote Mines?

8 A. Yes, sir.

9 Q. Do you have knowledge of sales in Flintkote Mines
10 before the time you assumed that position?

11 MR. TRAPANI: Asked and answered.

12 THE WITNESS: In a general -- In a general
13 way.

14 MR. GRELL: Q. And I believe that earlier
15 you said that you don't have any specific recollection of
16 what sales were made from the Flintkote Mines to various
17 companies prior to the time you took over that job.

18 A. Do not have specific knowledge.

19 Q. So we're talking about sales, we're talking about
20 sales from the time you took over until about 1969.

21 A. The only knowledge I have is what is in the records.

22 Q. What record are you referring to?

23 A. Sales records.

24 Q. Do you have sales records before 1969?

25 A. Yes.

26 Q. Do you know how far back you have sales records to?

27 A. I believe the earliest is 1959.

28 Q. Do you know where those records are kept, Mr. Hooker?

1 A. I have a copy of some sales records in my files.

2 Q. Do you know any other location within Flintkote's
3 organization that other records might be kept?

4 A. Counsel for Flintkote, Flintkote's own counsel, has
5 sales records, and I believe outside counsel has sales
6 records.

7 Q. Getting back to the Celotex-Philip Carey problem,
8 do you remember having sales to Philip Carey when you
9 worked as sales manager for Flintkote Mines?

10 A. Yes.

11 Q. Do you remember having sales to Celotex?

12 A. I'm back in the same problem again. I don't know
13 when Celotex and Philip-Carey, one or the other.

14 Q. I'm asking you now, does Celotex refresh your
15 recollection, seeing it on some of the sales records
16 that you've referred to a moment ago? And if you don't
17 know, you don't know. I'm not trying to put you through --

18 A. I don't know specifically when Philip Carey was part
19 of Celotex.

20 Q. What about sales to Unarco?

21 A. I -- No.

22 Q. What about sales to Fibreboard? Do you recall
23 sales to them?

24 A. I do not.

25 Q. Do you recall making sales to Pittsburgh Corning?

26 A. No, sir.

27 Q. What about Armstrong?

28 A. No.

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1 Q. Eagle Picher?

2 A. No, sir.

3 Q. Keene?

4 A. Do not recall.

5 Q. GAF?

6 A. Again, Counselor, I have trouble. Ruberoid became
7 a part of GAF. I do not know the dates, and, therefore,
8 I can't answer the question.

9 Q. Do you recall selling to either Ruberoid or GAF?

10 A. Yes, sir.

11 Q. What about to Nicolet?

12 A. No.

13 Q. How long did you work as sales manager, national
14 accounts sales manager?

15 A. These were overlapping responsibilities from 1969
16 until 19 -- late '71, I guess.

17 Q. Then what was your next position?

18 A. Vice president-general manager of Flintkote
19 International Licensing.

20 MR. JAMES MILLER: Flintkote what, sir?

21 THE WITNESS: International Licensing.

22 MR. GRELL: Q. You became vice president
23 around 1971?

24 A. Of a division -- Flintkote International Licensing,
25 a division of The Flintkote Company.

26 Q. Could you tell me your responsibilities in that
27 position?

28 A. To develop contractual sales for manufacturing

1 systems and product application systems that had been
2 patented by The Flintkote Company.

3 Q. What kind of manufacturing systems?

4 A. The primary one was the process of replacing fluorspar
5 in the basic oxygen furnace with a raw material called
6 Colmenit in the basic oxygen furnace at the steel mill level.

7 Q. Any other responsibilities other than what you've
8 mentioned?

9 A. Those were the three basic ones, national account
10 sales, mine sales and international licensing. They overlap.

11 Q. Did they overlap so that, as a vice president, you
12 were still involved with sales, Flintkote Mines, and
13 national sales for The Flintkote Company?

14 A. A brief overlap there.

15 Q. When did the overlap stop?

16 A. The mines shut down in December of 1971, and I was
17 involved in the international licensing operation until --
18 December of '73.

19 Q. How long were you vice president of International
20 Licensing?

21 A. Approximately 1970 to 1973, December of '73.

22 Q. Then what position did you occupy after being
23 vice president of International Licensing?

24 A. I became the manager of purchasing for the Building
25 Materials Division.

26 Q. Could you describe your responsibilities in that
27 job?

28 A. To administer the purchases of critical or large

1 volume raw materials for the various manufacturing
2 operations of the Building Materials Division.

3 Q. Did you purchase asbestos?

4 A. Yes, sir.

5 Q. Who did you purchase asbestos from during that time
6 when you started in that position?

7 A. Flintkote Mines, Limited, Union Carbide, Atlas
8 Asbestos, Huxley Development Company.

9 Q. Going back to Atlas Asbestos, do you know where
10 Atlas Asbestos was located?

11 A. Coalinga, California

12 MR. SCHROETER: You've answered the question.

13 MR. GRELL: Q. Can you think of any
14 others? Flintkote Mines, Union Carbide, Atlas Asbestos.
15 Any other places that you purchased asbestos from?

16 A. That's all that I can recall.

17 Q. Do you have any records that might help refresh
18 your recollection as to where you purchased additional
19 sources of asbestos?

20 A. Those records should exist in retention, in retained
21 files.

22 Q. Do you know who has those files?

23 A. I believe they are all in Irving, Texas. I'm not
24 positive.

25 Q. Did you review any of those records prior to coming
26 here to today's deposition?

27 A. No, sir.

28 Q. Did you see any of those records in the Sterns box

1 of documents that was referred to at the beginning of this
2 deposition?

3 A. I don't recall of seeing any purchase -- Flintkote
4 purchase records.

5 Q. How long did you work as manager-purchaser for
6 industrial material products? How long did you work as
7 manager-purchasing, industrial products, the job you just
8 described?

9 A. Well, if I may correct --

10 Q. Okay, correct me, because I think I have the title
11 wrong.

12 A. I have been the manager of purchasing for the
13 Building Materials Division of The Flintkote Company since
14 1974.

15 Now, what was your last question?

16 Q. Is that still your position today?

17 A. Yes, sir.

18 Q. So you've worked as manager of purchasing building
19 materials for Flintkote from approximately '73-'74 to the
20 present?

21 A. Yes, sir.

22 Q. From 1973 to the present, were you involved in
23 sales of Flintkote products?

24 A. The only sales I've been involved in as purchasing
25 agent, as they were, of years gone by. Same. Surplus
26 materials, reject materials.

27 Q. Do you remember selling any reject asbestos fiber
28 from 1973 to the present?

1 A. No.

2 Q. Do you know if there's any records that would show
3 those sales?

4 A. I don't know whether such records exist.

5 Q. Have you ever seen any such records within the past
6 year or so?

7 A. I have seen no records of -- During the time span
8 you have identified -- I have seen some records of the
9 sale of asbestos fiber. I do not remember the time span.
10 Best that I can do.

11 Q. Do you know where those records are or where you've
12 seen those records?

13 A. They were at least detailed, to some extent, in
14 responses for either requests for admissions or interroga-
15 tories.

16 Q. Do you remember actually seeing the document itself?
17 Not a reference to the document.

18 A. Yes. May I ask, is this raw asbestos fiber you're
19 talking about?

20 Q. I'm talking about sales of asbestos fiber now.

21 A. Raw asbestos fiber. No, I don't recall of seeing
22 the documents of raw asbestos fiber.

23 Q. Do you recall seeing records of sales of asbestos
24 products?

25 A. Yes, sir.

26 Q. Do you recall seeing those sales records of asbestos
27 products in the group of documents that you reviewed prior
28 to today's deposition that you talked about earlier?

1 A. Yes, sir.

2 Q. Do you recall any other sales records that you've
3 seen that weren't included in the group of documents that
4 you reviewed prior to coming to today's deposition, which
5 we've talked about this morning?

6 MR. SCHROETER: Objection. Vague. You mean
7 has he ever seen them or has he seen them just the day before
8 this deposition?

9 MR. GRELL: Q. I'm asking you if you are aware
10 of any additional sales records that were not in the box
11 with sales records that you reviewed prior to today's
12 deposition when you met with counsel.

13 A. No, sir.

14 MR. SCHROETER: They weren't in the box.

15 MR. SILBERFELD: Do you mind if I jump in a
16 little bit?

17 MR. GRELL: He's got a lot of the documents
18 that I've just been referring to.

19 MR. SCHROETER: What sequence you gentlemen
20 take among each other is your business. I will object to
21 any three-party dialogue, of course. So if you're deferring
22 to Mr. Silberfeld now, then so be it.

23 MR. GRELL: Mr. Silberfeld has a number
24 of documents that were produced in the Sterns case.

25 MR. SCHROETER: We'll hear from him now and
26 not from you.

27 MR. GRELL: I'm going to shut up for
28 awhile.

1 MR. SILBERFELD: For the time being.

2

3 EXAMINATION BY MR. SILBERFELD

4 MR. SILBERFELD: Q. Mr. Hooker, I have some
5 questions for you about some of the things you've already
6 testified about. Let me just try to clear them up, if I
7 can.

8 We met upstairs, and I don't think I told you at
9 that time I represent some plaintiffs in the Los Angeles
10 cases.

11 MR. SCHROETER: You should always say that
12 right at the first.

13 MR. SILBERFELD: I forgot to say that upstairs.
14 Sorry about that.

15 Q. At the time that you joined Flintkote in 1946,
16 how many divisions did the company have, if you have an
17 understanding about that?

18 A. If you want a general answer, about ten.

19 Q. And at that time when you joined up as a sales
20 trainee, what were the major business categories or product
21 categories the company had at that time?

22 A. Flintkote Company had roofing, industrial products,
23 floor tile, insulation board, fiber -- wood fiber insulation
24 board, some miscellaneous specialty products, such as
25 adhesives, and some marine products.

26 Q. Would those then be the major product categories
27 that existed as of 1946?

28 A. As of the time of my employment.

1 Q. I'm sure you've seen this document. It's Exhibit D
2 to some answers to interrogatories that have been filed
3 in the Los Angeles cases. It purports to be a description
4 of packaging of Flintkote products, but I don't want to ask
5 you about the packaging. There are listed here some
6 product categories. Let me show you this.

7 MR. SCHROETER: Excuse me. If there's going
8 to be more of this, which there no doubt will be, let's
9 be as precise as we can. Roman, would you please tell the
10 record exactly what the set is and what this is an exhibit
11 to?

12 MR. SILBERFELD: It's an exhibit to Flintkote's
13 responses to interrogatories in the St. Jacque and
14 Beauregard cases, B-e-a-u-r-e-g-a-r-d. The specific
15 document I'm talking about is Exhibit D, which consists
16 of two pages. And the proof of service of these, because
17 these are not verified, the proof of service of these is
18 dated September 9, 1983.

19 MR. SCHROETER: Thank you.

20 MR. ROSEN: Excuse me. Just for the
21 record, the answers to which you referred were verified
22 by a subsequent verification signed by Mr. Hooker.

23 THE WITNESS: There's one more product to
24 add to your list.

25 MR. SILBERFELD: Q. Product category?

26 A. Asbestos cement shingles and board.

27 Q. Thank you, sir.

28 Now, with reference to Exhibit D, I'd like to compare

1 Exhibit D to the list you've just given us, if you could.
2 And the second page, let me show you here. In other words,
3 it's backwards.

4 MR. SCHROETER: What do you him to do? Read
5 it to himself first?

6 MR. SILBERFELD: Yes. I want him to just take
7 a look at it.

8 MR. SCHROETER: Read it to yourself and just
9 tell him when you're done. Page and a half.

10 THE WITNESS: (Examining document.)

11 MR. SILBERFELD: Q. Have you had a chance to
12 look at it, sir?

13 A. Yes, sir.

14 Q. At the suggestion of counsel, let me mark this
15 document as Plaintiffs' 1.

16 (WHEREUPON, A PHOTOCOPY OF A
17 TWO-PAGE DOCUMENT ENTITLED
18 "DESCRIPTION OF PACKAGING
19 OF FLINTKOTE ASBESTOS PRODUCTS"
20 WAS MARKED AS PLAINTIFFS'
21 EXHIBIT NO. 1 FOR IDENTIFICATION.)

22 MR. SCHROETER: I'll make a request of the
23 reporter right now, that at least on my copy, that the
24 exhibits be made part of the transcript.

25 MR. SILBERFELD: We'll do that with all of them.

26 MR. SCHROETER: Good.

27 MR. SILBERFELD: Q. Mr. Hooker, with respect
28 to Plaintiffs' No. 1, the first category of products listed
there are called "Liquid Products."

Did Flintkote, at the time you joined the company

1 in 1946, have a category of "Liquid Products"?

2 A. Yes, but they'd been defined at that time as
3 "Industrial Products."

4 Q. So they would fall under the "Industrial Products"
5 rubric that you gave us?

6 A. That is correct.

7 MR. JUDY: That's r-u-b-r-i-c.

8 MR. SILBERFELD: Q. The third category on
9 Plaintiffs' No. 1 is "Asbestos Cement Pipe."

10 Did Flintkote have a product category of "Asbestos
11 Cement Pipe" in 1946?

12 A. No, sir.

13 Q. When did the company first have that product
14 category? It tells us when it ended, in '77, but I don't
15 believe it tells us when it began. Do you know?

16 A. Sometime in the '60's.

17 Q. Did the start-up of the "Asbestos Cement Pipe"
18 portion of the business coincide with the J-M agreement?

19 A. Yes, sir.

20 Q. The fifth category of product that is listed there
21 is "Orangeburg Fibre Pipe."

22 A. Yes, sir.

23 Q. Did Flintkote, in 1946, have the "Orangeburg Fibre
24 Pipe" product?

25 A. To the best of my knowledge, the acquisition of
26 Orangeburg was at some later date.

27 Q. Do you recall what decade that was?

28 A. Best of my recollection, it was in the '60's.

1 Q. The next item is "Van Packer Chimney."

2 Did that product group exist when you joined the
3 company in 1946?

4 A. As part of Flintkote, no.

5 Q. In other words, "Van Packer Chimney" was a separate
6 company in existence in 1946; is that correct, sir?

7 A. Yes, sir.

8 Q. But at that time, it wasn't owned by Flintkote?

9 A. Correct.

10 Q. Do you know when Flintkote purchased it? By decade.

11 A. May I remark that these answers are all in other
12 exhibits that he has there.

13 MR. SCHROETER: You may remark that, but he
14 also can ask.

15 THE WITNESS: Okay.

16 MR. SCHROETER: And if you don't know, you
17 just tell him that.

18 THE WITNESS: Well, I can't remember the
19 dates. They're a matter of record.

20 MR. SILBERFELD: Q. If you don't recall, just
21 tell us.

22 A. No.

23 Q. That's fine.

24 Of the categories of products that you listed for
25 us, would the "Ready-Mix Joint Compounds" fall into this
26 category?

27 A. None of them.

28 Q. And it says here that they were manufactured from

1 1957 on; is that correct?

2 A. Best of my knowledge, that's the date.

3 MR. SCHROETER: Manufactured by whom?

4 Just to clarify this dialogue.

5 MR. SILBERFELD: Well, the exhibit says by
6 Flintkote.

7 MR. SCHROETER: That's why I'm asking.

8 Manufactured by whom?

9 THE WITNESS: I might correct you. They
10 were not manufactured by Flintkote.

11 MR. SILBERFELD: Q. Well, is that what the
12 exhibit says?

13 A. Yes, sir.

14 Q. Manufactured by independent companies, sold by
15 Flintkote.

16 On the second page of Exhibit 1 --

17 MR. JUDY: Is that a question and was
18 there an answer?

19 MR. SILBERFELD: Q. Was it correct that the
20 "Ready-Mix Joint Compounds" were made by independent
21 companies and sold by Flintkote?

22 A. When I went to work for The Flintkote Company, no.

23 Q. As of 1935 and onward.

24 A. Best of my knowledge, that's a correct statement.

25 Q. On Page 2 of Plaintiffs' 1 is a product category
26 called "Powder Joint Treatment Compound."

27 Are those products that are contained within that
28 description also contained somewhere in the product

1 categories you gave us?

2 A. Not in 1946.

3 Q. When, to your knowledge, did Flintkote, for the first
4 time, sell "Powder Joint Treatment Compound"?

5 A. Sometime in either the late '50's or early '60's.

6 Again, that should be on that other exhibit.

7 Q. And with respect to the last category on Plaintiffs'
8 1, the "Spray Texture," did Flintkote have a "Spray Texture"
9 product at the time you joined the company in 1946?

10 A. No, sir.

11 Q. With regard to the roofing products that the company
12 had when you joined in 1946, did any of those products
13 contain asbestos?

14 A. Yes, sir.

15 Q. With regard to the industrial products, did those
16 industrial products break down into subgroups like the
17 "Liquid Products" and others?

18 A. Yes, sir.

19 Q. What subcategories were there other than "Liquid
20 Products"?

21 A. Floor patching compounds is one.

22 To answer your question in the way it was posed,
23 I can't think of another one that was not either liquid or
24 mastic.

25 Q. Were there other types of products contained within
26 the industrial products group category that you gave us
27 other than liquids or mastics?

28 A. Type -- Would you explain what you mean by type?

1 Q. Well, what other products were contained in your
2 description of industrial products other than liquids and
3 mastics, for example?

4 A. Are we in the time span now of 1946?

5 Q. When you joined the company, yes, sir.

6 A. I can't think of any other general categories.

7 Q. There is an exhibit that has been attached to various
8 answers to interrogatories, Mr. Hooker. And it is also
9 attached as Exhibit A in the same Beauregard set that I
10 described earlier, and the same date. Let me show it to you.
11 It consists of seven pages headed, "Flintkote Asbestos
12 Industrial Products." Take a look at that for me, please.

13 MR. GRELL: Just so the record is also
14 clear, a similar composite document was attached to our
15 interrogatories served in the Sterns cases and produced
16 pursuant to our document request.

17 THE WITNESS: (Examining document.)

18 Okay.

19 MR. SILBERFELD: Q. Have you taken a look at
20 it, sir?

21 A. Yes, sir.

22 Q. Is that Exhibit A a complete list of the asbestos
23 industrial products manufactured by Flintkote or sold by
24 Flintkote during various years?

25 A. To the best of my knowledge.

26 Q. At the time you joined the company, it's correct, is
27 it not, that some of the industrial products manufactured
28 and sold by Flintkote contained asbestos?

- 1 A. Yes, sir.
- 2 Q. At the time you joined the company in 1946, did the
3 floor tile product group contain asbestos?
- 4 A. Yes, sir.
- 5 Q. Did the insulation board, the wood fiber insulation
6 board material, contain asbestos?
- 7 A. No, sir.
- 8 Q. You gave us a category group of miscellaneous
9 specialty products, such as adhesives.
- 10 At the time you joined the company in 1946, did
11 any of those products contain asbestos?
- 12 A. Yes, sir.
- 13 Q. The product group of marine products that you gave
14 us, can you give us an example of some of those?
- 15 A. Underwater protective coatings.
- 16 Q. Anything else?
- 17 A. That is what I had in mind when I identified marine
18 products.
- 19 Q. Is that a liquid or paint or solid?
- 20 A. Liquid.
- 21 Q. To your knowledge, when you joined the company,
22 did that product contain asbestos?
- 23 A. I don't recall if any of them had asbestos fiber in
24 them or not.
- 25 Q. And I take it that the cement shingles and boards
26 obviously contained asbestos.
- 27 A. Yes, sir.
- 28 Q. With regard to the divisions of the company that

1 existed in 1946 when you first joined, how many of those
2 divisions were manufacturing facilities?

3 A. I have to preface what I'm about to say in the sense
4 that The Flintkote Company acquired different companies over
5 all the years that I was with Flintkote. One which was
6 acquired immediately prior to my coming with Flintkote was
7 the Tiletex Company, which later became the Tiletex
8 Division and then the Flooring Division.

9 So in semantics, I have a problem in identifying --
10 in answering your questions, so I'm going to do it in the
11 best context I can.

12 And The Flintkote Company, in 1946, had really only
13 one major division in the company, that's The Flintkote
14 Company U.S.A., and that was the Pioneer Division of The
15 Flintkote Company. All of the other facilities were basically
16 part of what was called the Flintkote Building Materials.

17 Q. I'm trying to gain an understanding of how the
18 company was structured.

19 Practically speaking, for business purposes rather
20 than organizationally, at the time you joined in 1946, were
21 there, in fact, ten divisions of the company in 1946?

22 A. No, sir.

23 Q. There was the Pioneer Division.

24 A. That is correct.

25 Q. There was the Building Materials Division.

26 A. Yes, sir.

27 Q. Were there any other major divisions of the company?

28 A. Not in the manufacturing business.

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1 Q. I take it that Tiletex would have fallen under the
2 Building Materials Division.

3 A. Yes, sir.

4 Q. Other than manufacturing, what other businesses
5 were the divisions of Flintkote in other than manufacturing?

6 A. They had a Patent and Licensing Division.

7 As far as the U.S.A. is concerned, that's about it,
8 in 1946, to the best of my recollection.

9 Q. Okay.

10 Now you've had an opportunity, Mr. Hooker, over
11 the years, in responses to interrogatories and things,
12 to become familiar with the corporate history of the
13 company, have you not?

14 A. Yes, sir.

15 Q. So when I ask you questions about what the state
16 of affairs was in 1946, I'm not just asking for what you
17 knew then but, rather, everything you've learned since
18 about the state of affairs. Do you understand that?

19 A. Yes, sir.

20 Q. When did the Pioneer Division come into existence?

21 A. To the best of my recollection, it came someplace
22 in the early '20's. Could have been mid-'20's.

23 Q. And where was the Pioneer Division headquartered?

24 A. Vernon, California.

25 Q. How many operating facilities did the Vernon facility
26 have when you joined the company?

27 A. The Vernon facility itself -- Are you asking me what
28 products we manufactured at the Vernon facility?

1 Q. We'll get to the products in a second.

2 How many actual plants were there? Just one within
3 the division?

4 A. Oh, within the division?

5 Q. Yes, sir.

6 A. Okay. When I first came to work for the company.

7 The one Vernon -- It was the -- No, there were one,
8 two -- There were -- There was one other facility besides
9 the Vernon facility at the time.

10 Q. Where was that one?

11 A. It was in Hollywood, called the Hollywood Box
12 Company.

13 Q. At the time you joined the company in 1946, what
14 was the business of the Vernon facility? What happened
15 there?

16 A. A paper mill; a roofing plant; a liquids, quote,
17 "industrial," end quote, products plant; a corrugated box
18 plant; a folding carton plant; and I don't think I mentioned
19 it -- a floor tile plant.

20 Q. And what was the business of the Hollywood facility?

21 A. Set up boxes.

22 Q. What?

23 A. As a layman, you would recognize them as a candy box.
24 It's a rigid-type box.

25 Q. Would it be correct to say that the Vernon facility,
26 at the time you joined the company in the mid-'40's,
27 was engaged in the manufacture of products that contained
28 asbestos?

- 1 A. Yes, sir.
- 2 Q. That included the roofing products?
- 3 A. If not in '46, soon thereafter.
- 4 Q. The liquid products?
- 5 A. Yes, sir.
- 6 Q. The floor tile products?
- 7 A. Yes.
- 8 Q. Any of the other major categories?
- 9 A. Read them, please.
- 10 Q. Paper, folding cartons, corrugated boxes.
- 11 A. No.
- 12 Q. At the time you joined the company in 1946, how
- 13 many other roofing plants did the company have around the
- 14 country other than at Vernon?
- 15 A. Three others.
- 16 Q. Where were they located?
- 17 A. East Rutherford, New Jersey; New Orleans, Louisiana;
- 18 and Chicago Heights, Illinois.
- 19 Q. At the time you joined the company in 1946, did the
- 20 company have other floor tile plants other than Vernon?
- 21 A. Chicago Heights was the only one that I recall
- 22 being in existence at that time.
- 23 Q. Did the company have any other manufacturing plants
- 24 for its liquid products line --
- 25 A. Yes, sir.
- 26 Q. -- other than Vernon?
- 27 A. Yes, sir.
- 28 Q. Where was it?

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1 A. East Rutherford, New Jersey; Chicago Heights; I'm
2 not positive, but I believe the New Orleans liquid products
3 plant was in operation at that time.

4 I had one more. Atlas, the eastern division, in
5 Manayunk, Pennsylvania, was making a liquid product of a
6 sort or industrial products. These were the specialty
7 adhesives and so forth that I identified in a previous
8 question.

9 Q. Now we talked about the basic makeup or structure
10 of the Pioneer Division. I'd like to talk about the
11 structure of the Building Materials Division, if we can,
12 for a moment. All right?

13 A. Yes, sir.

14 Q. What products other than those manufactured or
15 those product categories manufactured at Vernon were
16 manufactured by the Building Materials Division? Major
17 categories of products, now.

18 A. In 1946?

19 Q. Yes, sir.

20 A. The wood fiber insulation board, Meridian, Mississippi
21 Asbestos cement shingles and board at three plant locations.
22 The Atlas adhesives operation. We have felt mills. But
23 wait a minute. That's not different from -- We had a paper
24 mill in Vernon.

25 You're asking me other than what we were doing in
26 Vernon.

27 Q. Yes.

28 A. I think that covers it.

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1 Q. Which are the three plants that were involved in
2 the asbestos shingles and board plants?

3 A. East Rutherford, New Jersey; New Orleans; and
4 Chicago Heights.

5 Q. And the Atlas plant was located where, sir?

6 A. In Manayunk, Pennsylvania.

7 Q. I'm sorry, sir?

8 A. It's a suburb of Philadelphia.

9 Q. At the time you joined the company, organizationally,
10 was there a person in charge of the Pioneer Division?

11 A. Yes, sir.

12 Q. Who was that?

13 A. Simpson was his last name. I can't remember his
14 first name.

15 Q. Is he living or dead, do you know?

16 A. I don't know.

17 Q. Do you know who headed up the Pioneer Division in
18 the 1950's?

19 A. George Pecaro.

20 Q. How do you spell the last name?

21 A. P-e-c-a-r-o.

22 Q. Is Mr. Pecaro alive or dead?

23 A. Alive.

24 Q. Do you know where?

25 A. Pauma Valley, California.

26 Q. I noticed your address book has disappeared. You
27 wouldn't have his address in there, would you?

28 A. I don't know whether it's in there or not.

1 MR. SCHROETER: Eagle eyes Silberfeld.
2 THE WITNESS: (Examining document.)
3 No, I do not have it.
4 MR. ROSEN: Excuse me for a second, sir.
5 The city you described for Mr. Pecaro's residence, is that
6 a city near San Diego?
7 THE WITNESS: Yes.
8 MR. ROSEN: Could it be Pauma Valley?
9 THE WITNESS: Yes. I think it's closer to
10 Oceanside.
11 MR. SILBERFELD: Q. Do you know during what
12 years Mr. Pecaro was in charge of the Pioneer Division?
13 A. 1947 to 1954.
14 I beg your pardon. It's later than that. '58.
15 Q. Do you know who succeeded Mr. Pecaro?
16 A. Yes, sir.
17 Q. Who's that?
18 A. Wilson Harvey.
19 Q. Is Mr. Harvey living or dead? Do you know?
20 A. Yes. Living.
21 Q. Where is he?
22 A. In Los Angeles.
23 Q. Is he still employed by Flintkote?
24 A. He's retired.
25 Q. Do you happen to have his address in your book?
26 You should have never brought it.
27 A. No, sir.
28 Q. During what years was Mr. Harvey the head of the

- 1 Pioneer Division?
- 2 A. Approximately 1979.
- 3 Q. So from '58 to '79?
- 4 A. Yes, sir.
- 5 Q. And who succeeded Mr. Harvey?
- 6 A. Mr. Al Whersdofer.
- 7 Q. Could you spell the last name?
- 8 A. W-h-e-r-s-d-o-f-e-r.
- 9 Q. Is he still employed by Flintkote?
- 10 A. Yes, sir.
- 11 Q. In that capacity?
- 12 A. No.
- 13 Q. What's he doing now?
- 14 A. He's the manager of the Florence, Colorado, gypsum
15 board plant.
- 16 Q. When you joined the company in 1946 as a sales
17 trainee, who was sales manager at that time?
- 18 A. I believe the man's name was Harkin, H-a-r-k-i-n.
19 I'm not certain. Or Harkins, H-a-r-k-i-n-s.
- 20 Q. Do you know whether he's living or dead?
- 21 A. I don't know.
- 22 Q. And was Mr. Harkin or Harkins also the sales manager
23 during the years you were the assistant sales manager?
- 24 A. Yes.
- 25 I did not report to him, though. We were
26 departmentalized, and I reported to a departmental sales
27 manager.
- 28 Q. You were in the industrial products department,

1 correct?

2 A. That is correct.

3 Q. And so you would have reported to the manager of
4 the industrial products department?

5 A. That's correct.

6 Q. Who was that fellow?

7 A. Robert Hodges.

8 Q. As part of your responsibility as assistant sales
9 manager, you told us that you had selected industries
10 under your responsibility, specifically automotive, railroad
11 and certain governmental entities. Did that responsibility
12 include the sale of Flintkote products containing asbestos?

13 A. Yes, sir.

14 Q. Floor tile?

15 A. No, sir.

16 Q. What Flintkote products containing asbestos did
17 you sell to your customers between the years '46 and '49?

18 A. The industrial products that were manufactured
19 in the Vernon plant.

20 Q. The roofing materials, for example?

21 A. No, sir. Industrial products, which were referred
22 to in some instance as liquid products.

23 Q. Okay.

24 Is it correct, then, that the only asbestos-containing
25 products that you had responsibility for selling to your
26 customers between '46 and '49 would have been the liquid
27 products?

28 A. Yes, sir.

1 Q. What department within the sales department were the
2 floor tile products contained within?

3 A. I can't recall specifically whether it was called
4 the Tiletex department or the flooring department at that
5 time. But they had their own sales manager.

6 Q. Who was the sales manager of the floor tile depart-
7 ment, regardless of its actual name?

8 A. I'm not certain whether I'm correct or not. But
9 Angelo Gossman.

10 Q. Angelo?

11 A. Angelo. Angelo Gossman was, in that time span, the
12 sales manager.

13 Q. And his last name, G-o-s-s-m-a-n?

14 A. Yes.

15 Q. Is he living or dead?

16 A. I don't know whether he's alive or not.

17 Q. When did you last have any contact with him?

18 A. Two years ago.

19 Q. Was he retired or employed at that time?

20 A. Retired.

21 Q. Where was he living?

22 A. The contact I had was through a subsidiary of The
23 Flintkote Company. And all I know is he was living in
24 Southern California. I don't know what town.

25 Q. Would you have his address in your book?

26 A. No, sir.

27 Q. When he was last employed, where was he employed?
28 If you know.

1 A. As -- To the best of my knowledge, the sales manager
2 for the Floor Tile Division for the West Coast.

3 Q. During what years was he manager of the floor tile
4 operation? Best estimate.

5 A. Sometime in the late '40's, until -- I'll have to
6 guess -- sometime in the '60's. Could have been late '50's.

7 Q. Do you know who succeeded Mr. Gossman in the floor
8 tile department?

9 A. Can't remember the man's name. Sorry, I can't give
10 you that man's name. I forget his name.

11 Q. Who's in charge of the floor tile operation at
12 Vernon now?

13 A. There is none.

14 Q. When was there last a floor tile operation at the
15 Vernon plant?

16 A. I believe we closed the plant in '81.

17 Q. Do you know who the manager of the floor tile
18 operation was at that time?

19 A. Walter Glovack.

20 Q. Could you spell the last name?

21 A. G-l-o-v-a-c-k.

22 Q. Is Mr. Glovack still employed by Flintkote?

23 A. No.

24 Q. Do you know where he is now?

25 A. He's on medical leave, for whatever the proper
26 terminology is.

27 Q. Is he living in Southern California?

28 A. Yes, sir.

1 Q. Do you know where?

2 A. I'm not positive of the town. It's a suburb of
3 Los Angeles.

4 Q. At the time that you were involved in the sales
5 in Los Angeles from '46 to '49, that time window, how
6 many sales representatives did the company have who had
7 selected responsibility for the sale of floor tile?

8 A. I don't know.

9 Q. How large was the sales department in Los Angeles
10 during that three-year period in total?

11 A. It was departmentalized, and I can't answer. We
12 had several different departments.

13 Q. Other than floor tile and industrial products,
14 what other departments were there in sales?

15 A. Fold, cartons, corrugated boxes, roof sales,
16 Hollywood Box Division.

17 Q. How many sales representatives were there in the
18 industrial products department during that two-year period?

19 A. I believe there were four of us.

20 Q. Comparing the size of your department and the size
21 of the other departments, was yours larger than the others
22 or smaller than the others or about the same, in terms of
23 staffing for sales purposes?

24 A. I'd say we were smaller.

25 Q. During the same period of time, Mr. Hooker, 1946
26 to 1949, was there a particular sales representative charged
27 with responsibility for sales to the United States
28 Government?

1 A. Not to my knowledge.

2 Q. Would that have been also broken down by product
3 categories, such as industrial products and otherwise?

4 A. Yes, sir.

5 Q. Do you know whether there was a sales representative
6 charged with the responsibility of sales to the United
7 States Government for floor tile?

8 A. I don't know whether anybody was specifically assigned
9 or not.

10 Q. At the time that we're speaking of, 1946 to 1949, were
11 there certain house accounts or company accounts which were
12 not really serviced by any other particular sales repre-
13 sentative?

14 A. I don't know for sure.

15 Q. I think I neglected to ask you about the health of
16 Mr. Harkins. Do you know if he's still alive?

17 A. I don't know.

18 Q. When did you last have any contact with him?

19 A. Personal contact was when I left the Pioneer
20 Division in 1962 was the last time I had any personal
21 contact with him.

22 Q. That's also the last time you ever spoke to him?

23 A. Yes, sir.

24 Q. At the time that you first joined the company from
25 '46 to '49, do you know what the distribution area was
26 of the floor tile manufactured at Vernon?

27 A. Eleven western states.

28 Q. Do you know what the distribution pattern was of

1 the floor tile manufactured at Chicago Heights?

2 A. I can only answer that question in a broad way.
3 Chicago Heights, New Orleans, which came on stream at
4 some point in time in the '40's, late '40's, early '50's,
5 that was our Eastern Division. Then there was an overlap
6 of the total eastern part of the United States for our
7 eastern floor tile operations.

8 Q. I may have misunderstood. At the time that we're
9 speaking of in the '40's, there were two floor tile
10 manufacturing facilities; is that correct? Vernon and
11 Chicago Heights.

12 A. 1946, there were two.

13 Q. I take it from your answer that at some point
14 New Orleans started manufacturing; is that correct?

15 A. That is correct. But I don't know the exact date
16 it started.

17 Q. But it was sometime in the late '40's?

18 A. Or very early '50's.

19 Q. And in the 1950's, let's take that ten-year period,
20 were there floor tile manufacturing facilities other than
21 Vernon, Chicago Heights and New Orleans?

22 A. Yes, sir.

23 Q. Which others?

24 A. Chillicothe, Ohio.

25 Q. You're going to have to spell that one for the
26 reporter, if you can.

27 A. Phonetically, C-h-i-l-l --

28 Q. Just like it sounds.

1 A. Somebody else can guess at it as well as I can.
2 You'll find it in an atlas.

3 Q. What's it near?

4 MR. JUDY: A river.

5 THE WITNESS: Dayton.

6 Chillicothe; East Rutherford, New Jersey; Watertown,
7 Massachusetts. That's it.

8 MR. SILBERFELD: Q. I have six.

9 A. I believe that covers it.

10 Q. Let's move forward to the '60's.

11 Can you name the manufacturing facilities of floor
12 tile that Flintkote had in the 1960's decade, if they're
13 different?

14 A. At some point in time in the late '50's or early
15 '60's, the East Rutherford facility shut down.

16 Q. So then we would have in the '60's --

17 A. Five.

18 Q. -- five of them.

19 A. Right.

20 Q. How about for the 1970's, Mr. Hooker? Same question.

21 A. Watertown shut down. And then Chillicothe shut down.

22 Q. So that at some time in the '70's you were down to
23 three?

24 A. Yes, sir.

25 Q. And then in the '80's --

26 A. We closed -- Well, in 1981, all were shut down.

27 Q. You told us that the distribution pattern for
28 the Vernon plant in the '40's was limited to the eleven

1 western states; is that correct?

2 A. Yes, sir.

3 Q. Was that true also in the '50's?

4 A. Yes, sir.

5 Q. And in the '60's?

6 A. Yes.

7 Q. And in the '70's?

8 A. Yes, sir.

9 Q. And for whatever period of time in the '80's?

10 A. Yes, sir.

11 Q. Would it be correct, Mr. Hooker, that for all of
12 the time that the Vernon plant was manufacturing floor tile,
13 no floor tile from any other manufacturing facilities was
14 distributed to those eleven western states?

15 A. That is not true.

16 Q. Can you describe how that wouldn't be true?

17 A. The Vernon plant did not make all of the floor tile
18 lines that the company had, and we shipped from other
19 locations a floor tile line for distribution in the eleven
20 western states.

21 Q. With respect to those lines of floor tile that were
22 manufactured by Vernon, did they have an exclusive
23 distribution for the eleven western states?

24 A. Ask that question again.

25 Q. Sure.

26 For those floor tile lines that were manufactured
27 by the Vernon facility, did their product and their product
28 alone get distributed to the eleven western states?

1 A. To the best of my recollection, the answer is yes.

2 Q. And would the flip side also be true, that for those
3 floor tile lines manufactured by Vernon, the same floor tile
4 lines manufactured by other facilities of the company in
5 other areas would not have come into those eleven western
6 states? Is that correct?

7 A. We wouldn't have shipped a product from another
8 facility that we made in Vernon or into the eleven western
9 states. We would have -- If I understand your question
10 correctly --

11 Q. I think you do.

12 A. The same products manufactured at Vernon being
13 manufactured in the eastern part of the United States, we
14 would not have shipped products from those eastern -- those
15 same products into Vernon.

16 Q. That is my question.

17 A. Okay.

18 Q. Of the floor tile line that the company had in the
19 '40's, did the Vernon facility manufacture all of that
20 line?

21 A. No, sir.

22 Q. How about in the '50's?

23 A. No, sir.

24 Q. '60's?

25 A. Never.

26 Q. Okay. That's an easy answer.

27 Were there certain of these facilities that you
28 listed for us who produced particular lines of floor tile

1 for the company that were not produced at other plants,
2 for example?

3 A. Yes, sir.

4 Q. Can you categorize for us the floor tile lines in
5 some fashion?

6 A. Only by virtue of the difference in the manufacturing
7 process. And we did not duplicate all of the manufacturing
8 facilities throughout the United States. And that's why we
9 would move product from the East into this western market,
10 because we didn't have the equipment to make that particular
11 type of floor tile in the West.

12 Q. What distinguishing features between the floor lines
13 are there by manufacturing process?

14 A. An example is a special type of laminated tile that
15 we used to make in the East and did not make in the West.

16 Q. Any other examples?

17 A. There were certain embossed tiles that we produced
18 in the East.

19 Q. Those, again, would have been specialty items?

20 A. Special in design primarily.

21 Q. Any others, other than the laminated and embossed
22 tiles?

23 A. At one point in time, cove base, which was an adjunct
24 to floor tile. The black strip in this room. We made
25 cove base.

26 MR. SCHROETER: That's an incompetent opinion,
27 Mr. Hooker. You don't know that this black stuff was made
28 by Flintkote.

1 Q. But not by --

2 A. And then those divisions were broken down in any way
3 they wanted to.

4 Q. So basically, total sales were reported to Flintkote
5 by division, correct? Talking about the '40's, now.

6 A. I'm not specific. I was not in the accounting
7 department. I cannot answer exactly how those things were
8 handled.

9 Q. Were you aware that in the '40's, individual sales
10 information by product group was maintained by the company?

11 A. I know that the industrial products department had
12 its own accounting records maintained.

13 Q. Do you know if the floor tile department also had
14 such records?

15 A. Not specifically, because I was not involved in
16 keeping those records.

17 Q. Were you aware in the '40's that there was ever
18 a comparison made of the relative sales of floor tile and
19 industrial products in any other department?

20 A. Not to my knowledge.

21 Q. Do you have any estimate of what the sales of
22 floor tile were from the Pioneer Division for any of the
23 years between '46 and '49?

24 MR. SCHROETER: Objection. Don't answer that.
25 Vague. You mean quantitatively in squares?

26 MR. SILBERFELD: Dollars.

27 MR. SCHROETER: As to dollars, don't answer
28 that. That's not relevant. Won't lead to the discovery

1 of admissible evidence.

2 MR. SILBERFELD: Really?

3 MR. SCHROETER: Really.

4 MR. GRELL: You're instructing the witness
5 not to answer?

6 MR. SCHROETER: Anytime I say irrelevant,
7 I mean what I just said.

8 Yes, I'm telling you not to answer any questions that
9 ask for dollar sales totals or dollar sales items.

10 Quantitative, quantities of products, yes. That's
11 something else. Where and how much of the stuff was sold
12 to whom and when, be my guest.

13 MR. SILBERFELD: Q. Do you have any estimate
14 for us, Mr. Hooker, by unit of sales, rather than dollars
15 of sales, of the sales of floor tile for any years from '46
16 to '49?

17 A. No, sir.

18 Q. Do you know if such records are in existence at
19 the present time?

20 A. I don't know.

21 Q. Do you know who the major competitor or competitors
22 of Flintkote were in the eleven western states in the
23 floor tile products in the period 1946 to 1949?

24 A. I would be speculating as to what companies had
25 plants in operation at that time. I was not involved in
26 floor tile sales. I do not know what our competition was
27 at that time.

28 Q. Well, have you learned since that time who the major

1 competitors were at that time?

2 A. At that time, again, I don't know how to define it
3 by date.

4 Q. Do you know who the major competitors of Flintkote
5 were in floor tile during anytime in the '50's and '60's?
6 Let's use that twenty year window.

7 Q. Yes, sir.

8 Q. Can you refine that down anymore from twenty years
9 to maybe ten?

10 A. No. I don't know when their plants were in operation.

11 Q. All right. And with regard to the decades of the
12 '50's and '60's, who were the major competitors to Flintkote
13 in floor tile?

14 A. Armstrong, Johns-Manville, Ruberoid, Kentile.

15 Q. I'm sorry?

16 A. Kentile.

17 MR. JAMES MILLER: May I have that again?

18 THE WITNESS: Kentile, K-e-n-t-i-l-e.

19 May I ask, are we talking manufacturers in the
20 West or sales in the West now?

21 MR. SILBERFELD: Q. Good distinction. Sales
22 in the West.

23 A. Azrock, A-z-r-o-c-k, which also had the name of
24 Uvalde at one time, U-v-a-l-d-e. It's the same company
25 that --

26 Q. So I have J-M, Armstrong, Ruberoid, Kentile, Azrock
27 slash Uvalde.

28 A. Yeah. Those are the only names I can remember.

1 Q. And then, of course, Flintkote.

2 A. Yes.

3 MR. JUDY: As a competitor with itself.

4 MR. SILBERFELD: Q. Did J-M have a manufacturing
5 facility in the Western United States during the '50's and
6 '60's for floor tile?

7 A. To the best of my recollection, they did. I'm not
8 positive of that.

9 Q. Did Armstrong?

10 A. Yes.

11 Q. Where was it located? If you know.

12 A. In the greater Los Angeles area.

13 Q. Did Ruberoid?

14 A. Yes. Long Beach.

15 Q. Did Kentile?

16 A. I believe they had a plant in the San Francisco Bay
17 region. I'm not positive of that.

18 Q. Did Azrock have a manufacturing facility?

19 A. They were in Texas.

20 Q. For any of the years in the 1950's and 1960's,
21 Mr. Hooker, are you able to rank these six manufacturers
22 that we have here for floor tile by either total unit sales
23 or dollar sales?

24 A. No, sir.

25 Q. Do you have any estimate for us whatsoever of the
26 ranking of Flintkote in comparison to the others for any
27 of the years in the '50's and '60's?

28 MR. SCHROETER: With respect to what parameter?

1 MR. SILBERFELD: Units.

2 THE WITNESS: I can only say, a minor
3 position.

4 MR. SILBERFELD: Q. What's that based on?

5 A. With our one plant, minor and overall market.

6 Q. Did the other companies you mentioned have multiple
7 plants in the Western United States?

8 A. I do not know.

9 MR. JUDY: It's 12:05.

10 MR. SILBERFELD: Let's go off the record for a
11 second.

12 (Whereupon, there was a lunch recess taken at
13 12:05 o'clock p.m., and the deposition resumed at 1:20
14 o'clock p.m.)

15 MR. SILBERFELD: Let's go back on the record.

16 Let us identify for the record as Exhibit 2 to the
17 deposition the document which had been previously identified
18 as Exhibit A to certain answers to interrogatories. It
19 consists of eight pages and is entitled "Flintkote Asbestos
20 Industrial Products." It bears a date of 7/27/83, and the
21 last page bears a title of "Additional Asbestos Products
22 Once Manufactured By Flintkote," and that's a single page
23 bearing the date of 8/3/83.

24 (WHEREUPON, A PHOTOCOPY OF A
25 SEVEN-PAGE DOCUMENT ENTITLED
26 "FLINTKOTE ASBESTOS INDUSTRIAL
27 PRODUCTS," DATED 7/27/83, AND
28 A PHOTOCOPY OF A ONE-PAGE DOCUMENT
ENTITLED "ADDITIONAL ASBESTOS
PRODUCTS ONCE MANUFACTURED BY
FLINTKOTE," DATED 8/3/83, WERE
MARKED AS PLAINTIFFS' EXHIBIT NO. 2

FOR IDENTIFICATION.)

MR. SILBERFELD: Q. Mr. Hooker, during the period 1949 to 1952, what did you actually do in terms of priority price controls in the war effort? What was your job?

A. To prepare a manual for the Pioneer Division of The Flintkote Company to be used by all people at management level. In the case of priorities, to show them how to get priority status for the purchase of materials for construction projects. And in the case of price controls, what regulations they had to observe, how to price their products in accordance with federal regulations. All in accordance with federal regulations.

The other aspect of my job at that time was to serve on the Production Authority Forest Products Committee in Washington, D.C., which met about every sixty days. And I served to represent the West Coast pulp and paper producers and consumers, as well.

Q. In this role as administration assistant, Pioneer Division, did you have supervisory function over the product lines of the company --

A. No.

Q. -- any particular product line?

A. No, sir.

This position being priority and price control?

Q. Yes.

A. I had no direct responsibility.

Q. In the years that you were in the supervisory

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1952?

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1 Q. And was it part of your responsibility at that time
2 to acquire raw materials for the Pioneer Division for the
3 various products made by that division?

4 A. Yes, sir.

5 Q. Did that include asbestos products?

6 A. Yes, sir.

7 Q. During those years, did you acquire, by contract,
8 raw asbestos materials for the division from various
9 parties?

10 A. Not by contract.

11 Q. How was that done?

12 A. Open purchase orders.

13 Q. During the period 1952 to 1956, did the Pioneer
14 Division purchase raw asbestos material from Flintkote
15 Mines?

16 A. Yes, sir.

17 Q. Anyone else?

18 A. The latest time span being '56, are we talking about
19 now?

20 Q. Yes, sir.

21 A. Atlas Asbestos, Pacific Asbestos. Best of my
22 knowledge -- memory, that's it.

23 Q. Do you know the type of asbestos that was provided
24 to you by Atlas?

25 A. It was all classified as chrysotile.

26 Q. From Flintkote, as well as the others?

27 A. Yes, sir.

28 Q. During those years, did you ever personally see

1 any packages of the raw asbestos being delivered to any of
2 the Pioneer Division facilities?

3 A. Yes, sir.

4 Q. During your observation of that, did you ever see
5 whether any of those deliveries in the course of being
6 loaded or unloaded created dust?

7 A. No, sir.

8 Q. When you saw these deliveries of raw asbestos,
9 how was the asbestos packaged?

10 A. In either 80 or 100 pound bags.

11 Q. What were the bags made of, sir?

12 A. Some burlap, some paper.

13 Q. Did the bags have any identifying marks on them
14 which would distinguish them as being from either the
15 Flintkote Mines or Atlas or Pacific or anyone else?

16 A. Yes, sir.

17 Q. What would the bags have on them?

18 A. Identification of the mine and producer.

19 Q. During that four-year period from '52 to '56, can
20 you give us any estimate of the percentage of asbestos that
21 was purchased for the Pioneer Division from the three
22 producers?

23 A. I do not have a specific answer. The majority came
24 from Flintkote Mines.

25 Q. Is the majority more than 50 percent, in your
26 mind?

27 A. Yes, sir.

28 Q. Greater than 75 percent?

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1 A. I can't answer that question.

2 Q. During the years that you were the assistant director
3 of purchasing, did you ever see any manufacturing operation
4 where raw asbestos was being used?

5 A. Yes, sir.

6 Q. Can you give me an example of what you observed?

7 A. The liquid products plant, asbestos fiber was being
8 used. The bags were opened and the contents put in mixing
9 equipment.

10 In the floor tile plant, the same thing.

11 Q. Had you observed any of the operations of the liquid
12 products plant during the late '40's and early '50's?

13 A. Yes, sir.

14 Q. And the floor tile plant --

15 A. Yes.

16 Q. -- had you seen the operation there, as well?

17 A. Yes, sir.

18 Q. Basically the same type of operation, bags opened
19 and put into mixing equipment of some kind?

20 A. Yes, sir.

21 Q. In the liquid products plant, for any of the years
22 from '46 to '56, that ten-year period, was the operation
23 in an enclosed building or an open air building?

24 A. Enclosed building.

25 Q. And was the floor tile plant in an enclosed building
26 or in an open air building?

27 A. In a closed building.

28 Q. Do you know what type, if any, ventilation equipment

1 for the ambient atmosphere was in existence in the liquid
2 products plant?

3 A. There was dust control equipment, is the only way
4 I can describe it.

5 Q. Nothing more specific than that?

6 A. No, sir.

7 Q. Do you know whether it was dust control equipment
8 at the point of operation as distinguished from in the
9 entire building?

10 A. I can't answer -- Yes, I can answer it in this way:
11 Dust control equipment at the point of operation. I do not
12 know whether there was any, as far as the total building
13 was concerned.

14 Q. During this ten-year period, say, from '46 to '56,
15 in observing the observations of the liquid products plant
16 that involved the use of raw asbestos, did you see whether
17 that operation produced any visible dust at any stage?

18 A. I don't recall seeing any visible dust.

19 Q. In observing the operations of the floor tile
20 manufacturing plant, did you see that the operation produced
21 any visible dust?

22 A. No.

23 Q. Do you know what type of point of operation ventila-
24 tion or dust collection equipment was being used in
25 the liquid products plant?

26 A. No, sir.

27 Q. Do you know what type of dust collection equipment
28 was being used in the floor tile plant?

1 A. No, sir.

2 Q. Was there a person at Flintkote at the Pioneer
3 Division between the period of '46 to '56 who was charged
4 with the responsibility of these dust control measures?

5 A. Yes.

6 Q. Who would that have been, by title?

7 A. The manufacturing manager.

8 Q. I don't know whether you've identified him or not.
9 I don't think I've asked you that. If I have, I apologize
10 for asking it again. Who was the manufacturing manager
11 for any of the time between '46 and '56?

12 A. The only man I remember was Bill Birdsey,
13 B-i-r-d-s-e-y.

14 Q. "P," as in Paul?

15 A. "B," as in Birdsey. William Birdsey.

16 Q. B-i-r-d --

17 A. -s-e-y.

18 Q. Thank you, sir.

19 Is Mr. Birdsey still living?

20 A. I don't know.

21 Q. When did you last have contact with him?

22 A. About four years ago.

23 Q. Do you have his address in your phone book?

24 A. No, I do not.

25 Q. When you last had contact with him, where was he
26 residing?

27 A. Someplace in the Bay Area.

28 Q. Was he employed at that time?

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1 A. I don't know whether he was or not. He was a
2 consultant at that time. But --

3 Q. Self-employed or with a consulting firm?

4 A. No, self-employed.

5 Q. In addition to a manufacturing manager, were there
6 also manufacturing managers for each of the product lines?

7 A. Reporting to Mr. Birdsey?

8 Q. Yes.

9 Do you know who the manufacturing manager for the
10 floor tile was during any of this time?

11 A. George Paul Heppes.

12 MR. JAMES MILLER: Could you spell that last
13 name, please?

14 THE WITNESS: H-e-p-p-e-s.

15 MR. SILBERFELD: Q. Is Mr. Heppes still living?

16 A. Yes, sir.

17 Q. Do you know where?

18 A. Someplace in Oregon. I do not recall the name of
19 the town.

20 Q. Do you know if he's still employed?

21 A. To the best of my knowledge, he is not employed by
22 anybody.

23 Q. Do you know who the manufacturing manager was of
24 the liquid products plant during any of this period of
25 time?

26 A. Red -- I know his first name -- Red Abercrombie.

27 Q. Do you know if Mr. Abercrombie is still living?

28 A. I do not.

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1 Q. When did you last have contact with him?

2 A. 1962.

3 Q. During any of your visits to the liquid products
4 plant where you saw the manufacturing operation going on,
5 did you observe whether the workers there were wearing
6 face protection of any kind or breathing protection of any
7 kind?

8 A. I don't recall.

9 Q. Again, we're talking about the period of '46 to '56.

10 A. (Witness nods head in an affirmative manner.)
11 That's my problem.

12 MR. SCHROETER: When you say you don't recall,
13 you mean maybe they were, maybe not: you don't know?

14 THE WITNESS: I don't know.

15 MR. SILBERFELD: Q. Same question, Mr. Hooker,
16 with regard to the floor tile manufacturing that you
17 observed. Any recollection about whether the workers there
18 were wearing any face protection?

19 A. Whether they were or not, I have no recollection.

20 Q. Moving forward in time to the period 1956 to '62
21 when you became director of purchasing, did you, during
22 that six-year period, observe the manufacturing process
23 in any of the plants that had to do with asbestos?

24 A. Yes.

25 Q. With respect to that, did you observe whether any
26 of the operations grew any dust?

27 A. Not that I recall.

28 Q. Did you, at that time, observe any workers wearing

1 respirators or breathing apparatuses?

2 A. Again, I do not recall either way.

3 Q. During any of your time in your career with Flintkote,
4 do you recall ever seeing workers employed at plants of the
5 company wearing respirators or face protection of some type?

6 A. Yes, sir.

7 Q. When is your first specific recollection of it?

8 A. Chicago Heights floor tile plant in 1974.

9 Q. At that time, was the Chicago Heights floor tile plant
10 using asbestos in its operation?

11 A. Yes, sir.

12 Q. During the time that you were director of purchasing
13 from '56 to '62, who was the manufacturing manager at
14 the Pioneer Division?

15 A. To the best of my recollection, it was still
16 Mr. Birdsey.

17 Q. Do you know how long he served the company in that
18 capacity?

19 A. I tried to reconstruct this before. At the same
20 time with Mr. -- He left the company at the same time
21 Mr. Harvey became the general manager.

22 Q. I think you told us Mr. Harvey became the manager
23 in '58.

24 A. Okay.

25 Q. So would it be correct that Mr. Birdsey served as
26 manufacturing manager until approximately '58?

27 A. '58 or '59.

28 Q. Do you know who succeeded him?

- 1 A. M. L. Johnson.
- 2 Q. Is Mr. Johnson still living, to your knowledge?
- 3 A. Yes.
- 4 Q. Do you know where?
- 5 A. Beverly Hills.
- 6 Q. Do you have his address?
- 7 A. No.
- 8 Q. Is he still employed?
- 9 A. No.
- 10 Q. Do you know what the "M" or the "L" stands for?
- 11 A. Murdock.
- 12 MR. KEMALYAN: That's the "M."
- 13 MR. SILBERFELD: Is that the "M"? Thank you.
- 14 I'll do the jokes.
- 15 MR. JUDY: No comment.
- 16 MR. SILBERFELD: Q. During the period '56 to
- 17 '62, can you tell us who the floor tile manufacturing
- 18 manager was?
- 19 A. I cannot remember his name.
- 20 Q. Who was the manager of the liquid products manufac-
- 21 turing plant during that period?
- 22 A. I'm not positive about the date, but John Flanigan
- 23 late in that period.
- 24 Q. Is Mr. Flanigan still living, as far as you know?
- 25 A. Yes.
- 26 Q. Do you know where?
- 27 A. I do not, other than Southern California.
- 28 Q. Do you know who he's employed by?

1 A. No, I don't know.

2 Q. At some point in time, did the Pioneer Division
3 develop any rules or regulations that required the wearing
4 of breathing protection by workers involved in the use of
5 asbestos in the manufacturing process?

6 A. Only in accordance with federal regulations.

7 Q. By that, do you mean that whenever it was that the
8 federal regulation was promulgated, it was then adopted by
9 Flintkote?

10 A. Yes, sir. And I'm speaking to that question as to
11 what I know the company did.

12 Q. Sure.

13 During any of the time that you were the director
14 of purchasing from '56 to '62, did you participate in the
15 discussions with any of the other management level people
16 at the Pioneer Division about the advisability of having
17 workers wear breathing protection of some type?

18 A. No.

19 Q. As far as you know, no such discussions took place?

20 A. Would you ask that question again?

21 Q. Sure.

22 As far as you know, during that period of time,
23 no such discussions about the advisability of wearing
24 breathing protection took place within the Pioneer Division
25 at the management level?

26 A. It's a negative question. I'm sorry. I think
27 you're asking me to indict my company.

28 They met the regulations. As far as I know,

1 throughout my life with the Flintkote Company they observed
2 regulations as they were promulgated.

3 Q. Let me pose the question to you in this way: Are
4 you aware of any discussions that took place during the
5 years that you were the director of purchasing that
6 suggested a voluntary adoption of rules requiring the
7 wearing of respirators?

8 A. No, sir.

9 Q. Do you know when it was that the federal rule was
10 promulgated about the use of respirators?

11 A. Specifically about respirators, no.

12 Q. Can you give it to me by decade? The '50's, the
13 '60's, the '70's?

14 A. I don't know.

15 Q. You say specifically about respirators. Do you
16 have some knowledge about federal rules being promulgated
17 about asbestos?

18 A. Yes, sir.

19 Q. What's your first knowledge about that?

20 A. 1972.

21 Q. What happened?

22 A. When OSHA issued their regulations concerning
23 asbestos fiber.

24 Q. What's your best understanding of what those
25 regulations required at that time?

26 A. That the worker in the plant be protected against
27 maximum limit exposures to asbestos fiber as defined by
28 the regulation.

1 Q. Prior to 1972, had you learned -- now, this is
2 Mr. Hooker personally, not Flintkote -- had you, Mr. Hooker,
3 learned of any concern about the health effects of exposure
4 to asbestos?

5 A. Yes, sir.

6 Q. When did you personally first learn that?

7 A. In 1969.

8 Q. And how did you acquire that knowledge?

9 A. Through my activities with Flintkote Mines, Limited.

10 Q. Specifically, what about your activities with
11 Flintkote Mines gave you this awareness or understanding?

12 A. Through attending the Quebec Asbestos Mining
13 Association meetings.

14 Q. Were you Flintkote Mines' representative to QAMA?

15 A. An alternate representative.

16 Q. And you attended meetings of that association?

17 A. Yes, sir.

18 Q. Do you recall any of the specifics concerning what
19 you learned in 1969 about health hazards associated with
20 asbestos exposure?

21 A. Very general overview of the work that QAMA was
22 sponsoring in Canada and studies that were being made
23 concerning asbestos fiber exposure.

24 Q. In connection with the health risk of asbestos
25 exposure, what class of worker or class of person was
26 at risk, as far as you understood it when you first heard
27 about this in 1969?

28 A. The people working in our mine and mill, asbestos

1 mill. The laborers working in our mine and asbestos mill
2 in Canada.

3 Q. The mine workers would be those persons who took
4 the raw material out of the ground?

5 A. Yes, sir.

6 Q. And what would the mill workers be?

7 A. Taking the ore and grinding it and processing it
8 and screening and bagging it.

9 Q. Would the work of the mill workers be done in an
10 enclosed factory or shop of some kind?

11 A. Yes, sir.

12 Q. And the mine workers' work is outdoors; is that
13 correct?

14 A. Open pit mine.

15 Q. When you first learned about this health risk for
16 the mine workers and the mill workers, what suggestions
17 were made to control the risk, as far as you know?

18 MR. SCHROETER: Suggestions by whom?

19 MR. SILBERFELD: By whoever it is that
20 Mr. Hooker learned this from at these QAMA meetings.

21 THE WITNESS: I was never -- Or I don't
22 remember specifically seeing any recommendations of
23 health -- "aids" is the wrong word -- I'm sorry. The
24 work I am familiar with is the work as relates to the
25 studies.

26 MR. SILBERFELD: Q. So your best memory is
27 that you learned of the health risks associated with
28 asbestos exposure, but you don't have a memory of the

1 date, at least, of learning about the control measures
2 or anything like that?

3 A. No, sir.

4 Q. Did anyone else from Flintkote or Flintkote Mines
5 attend any of these QAMA meetings with you?

6 A. Yes, sir.

7 Q. Who?

8 A. Dalna Poirier, P-o-i-r-i-e-r. He was the mine manager.

9 Q. Anyone else?

10 A. Monty Carpenter.

11 Q. What was Mr. Carpenter's position at the time?

12 A. He was the vice president of Flintkote.

13 Q. At some point in time, did Mr. Carpenter become
14 president of Flintkote?

15 A. Yes, sir.

16 Q. When was that, approximately?

17 A. 1981, approximately.

18 Q. Anyone other than Mr. Poirier -- if I'm pronouncing
19 that right -- and Mr. Carpenter?

20 A. I don't recall anyone else in my company during
21 that time span.

22 Q. Yes, during this initial time when you learned
23 about this.

24 A. Yes.

25 Q. Now switching from what Mr. Hooker knew personally
26 when he first learned it to what your understanding is of
27 what your company knew or understood at various points in
28 time -- we're shifting gears now -- to your knowledge, when

1 did Flintkote first learn of any alleged health effects
2 associated with asbestos exposure?

3 MR. SCHROETER: Don't answer that. That's
4 not answerable, and I have to object to it as vague, because
5 Flintkote is a collection of people, not an entity of its
6 own.

7 MR. SILBERFELD: Well, I'm talking about
8 collection of people.

9 MR. SCHROETER: Collections of people don't
10 know things. Individuals do. So I instruct him not to
11 answer that.

12 Don't answer that question.

13 MR. SILBERFELD: Q. Mr. Hooker, as far as you
14 know, when was the first time that any person employed by
15 Flintkote, other than you, learned of the health effects
16 associated with asbestos exposure?

17 A. I don't know the answer to that.

18 Q. Have you, since 1969 when you first learned about
19 the health effects, talked to any other person employed by
20 Flintkote about the health effects of asbestos exposure?

21 A. Since 1969?

22 Q. Yes.

23 A. Yes, sir.

24 Q. And since 1969 up to the present, have you attempted
25 to determine when it was that any employee of Flintkote
26 first learned about the health effects associated with
27 asbestos exposure?

28 A. No, sir.

1 Q. You never tried to find that out?

2 A. No, sir.

3 Q. As far as you know, are you the first one at
4 Flintkote ever to learn about the health effects of asbestos
5 exposure, back in 1969?

6 A. Ask the question again.

7 Q. Sure.

8 From everything you've been able to discovery up
9 to the present, were you the first employee of Flintkote
10 to learn about the health effects of asbestos exposure in
11 1969 when you learned about it?

12 A. No, sir.

13 Q. Do you have any information to indicate that anyone
14 at Flintkote knew about the health effects associated with
15 asbestos exposure before 1969?

16 A. Those parties associated with our mine --

17 Again, would you define Flintkote? I'm in trouble
18 here again.

19 Q. Okay. If you don't understand the question or any
20 part of it, tell me so, and I'll try to help.

21 A. Definition.

22 Q. You're having trouble of what I use as Flintkote?

23 A. Yes.

24 Q. Let me try to define it in this way: Either the
25 parent company, any subsidiary or any division of it,
26 American or otherwise.

27 A. All right.

28 Q. All right?

1 A. Okay.

2 Q. I think I've covered Flintkote in the world. And
3 if I haven't, I mean to include Flintkote in the whole
4 world.

5 With respect to that definition of Flintkote now,
6 do you have any information to indicate that any employee
7 of Flintkote knew or had reason to know of the health
8 effects of asbestos exposure before 1969 when you first
9 learned of it?

10 MR. SCHROETER: Objection. Vague. Do you
11 mean does he have any information that tells him whether
12 or not anyone else within that defined group knew of such
13 effects?

14 MR. SILBERFELD: Yes.

15 THE WITNESS: I have nothing in my files.

16 MR. SILBERFELD: Q. Do you have any memory
17 of it?

18 A. Yes.

19 Q. What is your memory?

20 A. The best way to describe it, my predecessor.

21 Q. Tell me about that. Who was your predecessor?

22 A. James Main.

23 Q. And what did Mr. Main know, as far as you know,
24 about the health effects of asbestos exposure?

25 MR. SCHROETER: You're not to speculate on
26 what somebody else knew. You are to say only what you
27 know what from he told you he knew. Guesswork, no.

28 THE WITNESS: He told me --

1 MR. SILBERFELD: I'm sorry?

2 MR. SCHROETER: Go ahead.

3 THE WITNESS: I was just instructed to
4 respond as to what Mr. Main told me he knew. He told me
5 nothing.

6 MR. SILBERFELD: Q. Do you have an impression
7 in your mind that Mr. Main had some knowledge concerning
8 the health effects of asbestos exposure?

9 MR. SCHROETER: Objection. That calls for
10 speculation. Impressions in the mind of what somebody
11 knew who wasn't talking about it calls for speculation.

12 MR. SILBERFELD: No. I'm asking for the
13 witness' impression in his own mind, based upon what
14 someone else may have said to him. That doesn't call for
15 speculation. That calls for what's in his mind. If he
16 has no such impression, he can tell us that. If he does,
17 he should tell us that.

18 THE WITNESS: He attended QAMA meetings.

19 MR. SILBERFELD: Q. All right. And what do
20 you deduce from that, if anything?

21 A. The studies that I became familiar with were
22 started before I attended the meetings.

23 Q. Mr. Main was your predecessor as a sales manager
24 for Flintkote Mines, correct?

25 A. Yes, sir.

26 Q. And in that capacity, he attended the QAMA meetings,
27 as far as you know --

28 A. Yes, sir.

1 Q. -- as the company representative.

2 A. To the best of my knowledge.

3 Q. When you first started going there in 1969, you
4 became aware of the studies that you've described to us.

5 A. Yes, sir.

6 Q. And the studies, at least by date, preceded the
7 year 1969; is that correct?

8 A. Yes, sir.

9 Q. Do you know what year they were?

10 A. I do not know the dates they were started.

11 Q. Do you know whether they were in the '60's?

12 A. I do not know specifically when they were started.

13 Q. Do you know whether they were studies of mining and
14 milling operations in the Quebec area?

15 A. Yes, sir.

16 Q. Do you know whether they were published anywhere
17 or only used for QAMA purposes?

18 A. I do not know what publication was made of them.

19 MR. SCHROETER: For clarification, Roman --

20 MR. SILBERFELD: Sure.

21 MR. SCHROETER: -- do you know whether or not
22 any of those QAMA sponsored studies of asbestos effects
23 were ever discussed in QAMA meetings held before you first
24 attended them?

25 THE WITNESS: I do not know for a fact
26 that they were.

27 MR. SILBERFELD: Q. Since 1969, have you and
28 Mr. Main ever discussed when the two of you first learned

1 about the health effects of asbestos exposure?

2 A. No, sir.

3 Q. Have you talked to Mr. Main on any subject in the
4 last year?

5 A. Yes, sir.

6 Q. Have you talked to Mr. Main in the last year about
7 the asbestos litigation?

8 A. Questions associated with asbestos litigation, yes,
9 sir.

10 Q. What nature of questions?

11 A. As I recall, they were marketing questions.

12 Q. During any of your recent -- this is within the
13 last twelve months -- conversations with Mr. Main, did you
14 discuss with him when he first learned of the health effects
15 associated with asbestos exposure?

16 A. No, sir.

17 Q. Did the QAMA keep minutes of those meetings, as
18 far as you know?

19 A. Yes, sir.

20 Q. Did you, as the Flintkote Mines representative at
21 those meetings, receive minutes of the meetings?

22 A. Yes, sir.

23 Q. Did you, after 1969, obviously, get copies of any
24 of these studies or articles sent to you?

25 A. Yes, sir.

26 Q. And when you would receive the minutes of the QAMA
27 meetings, did you review them?

28 A. As a general rule, no.

1 Q. Did you file them away somewhere?

2 A. They were filed.

3 Q. In the trash can or filed away?

4 A. They were filed, appropriate file.

5 Q. A QAMA file?

6 A. It would have been so designated, yes.

7 Q. Was it part of your habit and custom existing at
8 that time to circulate information such as QAMA minutes to
9 anyone else within your department or your office?

10 A. No, sir.

11 Q. Was it part of your habit and custom at that time
12 to circulate any of the medical studies or the workers'
13 studies to anyone else?

14 A. No, sir.

15 Q. At anytime after first learning of the health
16 effects of asbestos exposure in 1969, did you communicate
17 that knowledge to anyone else at Flintkote Mines who
18 wasn't present with you?

19 A. No, sir.

20 Q. At anytime after 1969, did you personally communicate
21 what you had learned about the health effects of asbestos
22 to anyone at any of the operating divisions of Flintkote?

23 A. No, sir.

24 Q. At some point in time, Mr. Hooker, did you personally
25 become concerned about the possible health effects on the
26 workers in your manufacturing plants --

27 A. No, sir.

28 Q. -- from exposure to asbestos?

1 A. It was not my responsibility.

2 Q. After 1969, whose responsibility would that have
3 been, sir?

4 MR. SCHROETER: Don't answer that. Objection,
5 in that it's vague, because the term "responsibility"
6 isn't defined. You mean responsibility within the
7 guidelines that governs the company from within? Otherwise,
8 that calls for --

9 MR. JAMES MILLER: I think the witness just
10 used that word, Mr. Schroeter.

11 MR. SCHROETER: That doesn't change the fact.
12 I want to know what Counsel means.

13 MR. SILBERFELD: Q. Mr. Hooker, what do you
14 mean by not your responsibility?

15 A. I was sales manager. And the sales manager was
16 not responsible for the operation of our plants.

17 Q. In a corporate responsibility. Is that what you
18 mean?

19 A. That is correct.

20 Q. And in that same sense, who was responsible for
21 considerations of health and safety?

22 A. I'm not positive, but we had a safety -- corporate
23 safety direction or department.

24 Q. Do you know who headed up that department at
25 anytime?

26 A. Most recently -- We're talking about Flintkote
27 overall?

28 Q. Yes, sir.

- 1 A. John Schmitt is the most recent.
- 2 Q. S-c-h-m-i-d-t?
- 3 A. S-c-h-m-i-t-t.
- 4 Q. Is Mr. Schmitt still with what is now Genstar?
- 5 A. He's with Genstar.
- 6 Q. Where?
- 7 A. In New Jersey.
- 8 Q. Who preceded Mr. Schmitt?
- 9 A. Sy Weiss.
- 10 Q. Do you know where Mr. Weiss is at this time?
- 11 A. The last I heard, he was with Marsh-McLennan,
- 12 insurance brokers.
- 13 Q. Where?
- 14 A. In the East. I don't know what town their offices
- 15 are in.
- 16 Q. Do you know what state?
- 17 A. Pardon?
- 18 A. Do you know the state?
- 19 A. Either New York or New Jersey.
- 20 Q. Would you have his address in your book?
- 21 A. I do not.
- 22 Q. During what years has Mr. Schmitt been the safety
- 23 director, head of that department?
- 24 A. I believe since 1981.
- 25 Q. So '81 to the present?
- 26 A. Yes.
- 27 Q. And during what years was Mr. Weiss in that capacity?
- 28 A. I don't know how many years prior to that. It would

1 be back sometime in the '70's.

2 Q. Do you know who preceded Mr. Weiss?

3 A. I don't remember.

4 Q. Do you recall the name of any person who acted as
5 safety director or head of that department before Mr. Weiss,
6 going back all the way to '46?

7 A. No, I do not.

8 Q. Since we're on the subject of various associations,
9 during your entire employment with Flintkote, have you
10 attended any association meetings other than QAMA?

11 A. Yes, sir.

12 Q. First of all, what associations have you attended
13 the meetings of?

14 A. Asbestos Information Association.

15 Q. What other associations?

16 A. National Purchasing Management Association.

17 Q. Any others?

18 A. No.

19 I take that back. What's the time span?

20 Q. '46 to the present.

21 A. National Trade Relations Association. That's it.

22 Q. Other than the meetings at QAMA that concerned the
23 health effects of asbestos exposure, have you attended
24 any other meetings where that subject was discussed?

25 A. Yes, sir.

26 Q. AIA?

27 A. AIA.

28 Q. Do you know when that was?

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1 A. From 19 -- sometime in the '70's, when AIA was
2 founded, until 1982.

3 Q. And during those times when you went to AIA
4 meetings, did the subject of the health effects of
5 asbestos exposure come up? Was that discussed at these
6 meetings?

7 A. It was.

8 Q. And in those discussions, what group of workers
9 or persons was considered to be at risk from asbestos
10 exposure in the AIA meetings?

11 A. Could you restate the question? I'm confused as
12 to what you're asking.

13 Q. Sure.

14 You told us earlier that at the QAMA meetings,
15 the concern in these studies was about the mine workers
16 and the mill workers, correct?

17 A. Yes, sir.

18 Q. Now I'm asking about the AIA meetings. In those
19 meetings when the health effects of asbestos exposure was
20 discussed, what group of workers was considered to be at
21 risk or in danger, if you will, of exposure to asbestos?

22 A. The workers who were using raw asbestos fiber to
23 manufacture products.

24 Q. Was that the first time that you personally,
25 Mr. Hooker, learned that workers using raw asbestos to
26 manufacture products would be or could be in danger of
27 injury or adverse health effects from exposure to asbestos?

28 A. Yes.

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1 Q. Upon learning about this health risk, namely, those
2 workers using the asbestos to make products, did you report
3 that to anyone at Flintkote or any of its operating
4 divisions?

5 A. Yes, I did.

6 Q. And in what form did you report it? Verbally, in
7 writing?

8 A. In writing.

9 Q. And to whom did you report it?

10 A. The subject matter dictated to whom I would submit
11 minutes of the meetings, recaps of what was said in the
12 meetings, and any materials that were handed out during
13 the meetings.

14 Q. Well, for example, if the subject matter concerned
15 the health risks of manufacturing employees, do you recall
16 any instance where you advised manufacturing managers at
17 any of the operating divisions of what you had learned?

18 A. The people I directed my information to were the
19 heads of divisions or departments. I did not address
20 myself to the specific manufacturing locations.

21 Q. To try to refine the day a little bit as to when
22 you first learned this at AIA meetings, can you tell us
23 whether it was while you were in your capacity as the
24 vice president of International Licensing or while you
25 were the manager of purchasing building materials?

26 A. There was a period of time when I had the
27 international licensing responsibility, but I was relieved
28 of my duties to attend AIA meetings, because I was not in

1 town, not available.

2 Q. Does that mean that you attended AIA meetings before
3 you became the vice president of International Licensing?

4 A. I believe so, that I did; yes.

5 Q. And in learning the things you have described to
6 us at these AIA meetings, you would communicate what you
7 had learned to the heads of divisions rather than the
8 manufacturing managers, let's say?

9 A. Responsible division management personnel.

10 Q. Do you recall whether anyone else from any
11 Flintkote operating division or corporate headquarter
12 attended any AIA meetings with you where the subject of
13 the health effects of asbestos exposure were discussed?

14 A. Yes.

15 Q. Who, sir?

16 A. John Schmitt.

17 Q. Anyone else?

18 A. William Mortonson.

19 Q. Anyone else?

20 A. Legal counsel. I can't remember who it was, but --

21 Q. That's a good generic.

22 A. Legal counsel from Flintkote.

23 Q. Inside counsel --

24 A. Yes.

25 Q. -- employed by the company?

26 A. Yes.

27 Q. Anyone else?

28 A. That's all that I recall.

1 Q. During those years in the '70's, what was
2 Mr. Mortonson's position?

3 A. I believe his title was manager of industrial
4 products.

5 Q. Do you have any specific recollection of communicating
6 what you learned at any AIA meeting to any division head
7 of any Flintkote division concerning the health effects of
8 asbestos exposure?

9 A. Not a specific document.

10 Q. Well, how about a specific conversation with anybody?

11 A. I don't recall of having a specific conversation.

12 Q. In your review of the various papers that were
13 earlier described as the Sterns production of documents,
14 did you see in there any memoranda or writings that
15 reflected your expression of concern about what you had
16 learned at one of these AIA meetings?

17 A. Yes, I did.

18 Q. We'll talk about the documents later on.

19 Have you heard from any source, other than what
20 counsel may have told you, that a health risk exists for
21 persons using a finished product which contains asbestos?

22 A. I have heard of potential health risks.

23 Q. When did you first hear that or learn that?

24 A. Through my activities with AIA.

25 Q. Would this be, again, in the '70's?

26 A. '70's.

27 Q. Up to 1982?

28 A. Yes.

1 Q. Can you tell us what class products, finished
2 products, you heard might pose a health risk?

3 A. Are you asking me to describe all of the products
4 that I can think of that were made, or just my company's
5 products?

6 Q. Your company's products.

7 A. Asbestos cement pipe --

8 These are manufactured products, I'm talking about
9 now.

10 Q. Yes, sir.

11 A. Are we talking about the manufacture of the products
12 from the time that I was in AIA? What span of time of
13 manufacture are we talking about now?

14 Q. Anytime, in terms of manufacture. In terms of when
15 you learned it, it was from the '70's on.

16 A. Yes. But you're asking me to go back --

17 Asbestos cement shingles and sheets. Those are
18 the --

19 Ask the question again.

20 Q. Sure.

21 A. I want to answer it, but I don't want to answer it
22 incorrectly, either.

23 Q. All right. Let me ask it again.

24 Let me just have the reporter read it back.

25 (Whereupon, the record was read by the reporter.)

26 THE WITNESS: And then you defined that,
27 Flintkote products.

28 MR. SILBERFELD: Q. Right.

1 A. Joint compound -- Well, wait a minute. Joint
2 compound was not a Flintkote product.

3 Asbestos cement, shingles and board, and asbestos
4 cement pipe.

5 Q. You mentioned joint compound and then said it
6 wasn't a Flintkote product.

7 A. We had defined it as manufactured by.

8 Q. Right.

9 A. That was not a Flintkote product.

10 Q. Did you learn at anytime during any of these AIA
11 meetings that there was a potential health risk from floor
12 tile?

13 A. No, sir. With the exception of sanding.

14 Q. Well, maybe I should define the terms a little bit.

15 When we speak of the health risks associated with
16 the use of a finished or manufactured product, I'm including
17 in the question any use of that product that is foreseeable,
18 that is recognized.

19 A. The answer, then, is none in floor tile.

20 Q. So in your view, sanding of floor tile is not --

21 A. An accepted practice.

22 Q. -- not an accepted practice?

23 A. (Witness nods head in an affirmative manner.)

24 Q. How long has that been true, sir?

25 A. For as long as I have been associated with floor tile.

26 Q. Back to the '40's?

27 A. Yes.

28 Q. Can you tell me the reason that the sanding of floor

1 tile is not an accepted practice?

2 A. The potential release of asbestos fiber in the sand
3 when it's sanded.

4 Q. And that potential release of asbestos fiber, I
5 take it, is something to be avoided; is that correct?

6 A. Yes, sir.

7 Q. And that was something that was known by you going
8 back to the 1940's?

9 A. Not specifically. I used floor tile myself in those
10 days, put it down myself as a layman; not as a salesman for
11 Flintkote.

12 Q. It was your understanding, though, at that time,
13 that it was not an accepted practice to sand floor tile,
14 correct?

15 MR. SCHROETER: What time do you mean? Going
16 all the way back to the '40's?

17 THE WITNESS: As far as I can remember.

18 MR. SILBERFELD: Q. When you first learned
19 that there might be a health risk associated with exposure
20 to certain finished products that contain asbestos, did
21 you ever hear that the cutting or chipping or sanding of
22 manufactured products could result in the release of asbestos
23 fiber?

24 MR. SCHROETER: Any manufactured products?

25 MR. SILBERFELD: Yes.

26 THE WITNESS: In any of my time span?

27 MR. SILBERFELD: Q. Yes.

28 A. Yes.

1 Q. Did you learn that with respect to any particular
2 Flintkote manufactured products?

3 A. Asbestos cement pipe, specifically.

4 Q. Do you know whether --

5 Did you want to add something to your answer?

6 A. No.

7 Q. Do you know whether asbestos-containing floor tile
8 manufactured by Flintkote was among the products that would
9 result in the release of asbestos fiber if cut or chipped
10 or broken?

11 A. No, sir. It would not.

12 Q. It would not?

13 A. It would not.

14 Q. How do you know that, sir?

15 A. The product was made in such a way that the asbestos
16 fiber becomes bound into the product.

17 Q. Is there a manufacturing process that results in
18 that binding, or is there an actual agent added to the mix
19 that causes that, if you know?

20 A. Agent being raw materials, yes. Raw materials are
21 added, resin and other raw materials. Or binders, if you
22 choose to call them that.

23 Q. And are you aware, Mr. Hooker, of any tests that
24 were conducted by Flintkote at anytime to determine whether
25 breakage, chipping, or the cutting of Flintkote floor tile
26 resulted in a release of airborne fibers?

27 A. No.

28 Q. You're not aware that any such testing has ever been

1 done?

2 A. By Flintkote.

3 Q. By Flintkote.

4 Do you know if any such test has ever been done by
5 anybody?

6 MR. SCHROETER: What do you mean by anybody?
7 By other companies?

8 MR. SILBERFELD: Q. By anybody, other than
9 Flintkote.

10 A. Restate your last question again.

11 Q. Sure.

12 You told us that, as far as you know, Flintkote
13 has never conducted tests to determine whether the cutting,
14 breaking, or chipping of floor tile would result in the
15 release of fibers, correct?

16 A. Yes.

17 Q. Now my question is: Do you know whether any company
18 or person has ever conducted such tests?

19 A. I'm not certain whether they have or have not been
20 done -- been made.

21 Q. To your knowledge, has Flintkote at anytime conducted
22 tests to determine whether the sanding of its floor tile
23 would result in the release of airborne asbestos fibers?

24 A. No, I've never been in any such Flintkote tests.

25 Q. Do you know whether anyone else has conducted any
26 tests to determine whether the sanding of its floor tile
27 would result in the release of airborne asbestos fibers?

28 A. I do not know specifically the scope of any tests.

1 Q. Now when you first learned that there was a potential
2 health risk associated with the use of manufactured products,
3 did you communicate that to anyone else at Flintkote?

4 MR. JUDY: He just noted a report.

5 MR. SILBERFELD: Well, I think the last time
6 we were talking about the manufacturing setting.

7 MR. JUDY: Right. I apologize.

8 THE WITNESS: The question again, please?

9 MR. SILBERFELD: Q. Sure.

10 A couple of minutes ago we were talking about what
11 you learned about health risks for manufacturing employees.
12 Do you remember that discussion?

13 A. Yes.

14 Q. And you told us you went to AIA meetings and
15 Mr. Schmitt and Mr. Mortonson came along.

16 A. Uh-huh.

17 Q. Then we got into another subject, which was health
18 risks associated with finished or manufactured products.

19 A. Yes.

20 Q. Now the question is: In that connection, did you
21 communicate what you learned about the health risks
22 associated with manufactured products to anyone else at
23 Flintkote?

24 A. Yes, sir.

25 Q. Who, sir?

26 A. Did you ask me a question?

27 Q. Yes. I said who, sir?

28 A. As appropriate, whatever products were discussed in

1 warning labels on any product manufactured by Flintkote?

2 A. I was not involved in that decision.

3 Q. Did you participate in anyway in the decision-making
4 process, even though you may not have been involved in the
5 final decision?

6 A. My interpretation of the process, no.

7 Q. Did you have any role in the information gathering
8 or the data gathering process that led up to the decision-
9 making process?

10 MR. SCHROETER: Excuse me. Don't answer that.

11 You're assuming that he knows what the decision
12 makers used. Maybe you should foundationally ask what he
13 knows.

14 MR. SILBERFELD: I'm not suggesting that they
15 used any information he may have gathered.

16 Q. But did you, at some point in time, gather informa-
17 tion without regard to whether it was ever relied on or
18 used by anyone above you, about the advisability or
19 inadvisability of using warning labels on Flintkote products?

20 A. At some point in time, I was involved in the wording
21 of warning labels.

22 Q. Is that the extent of your involvement?

23 A. As far as the decision-making process was concerned.

24 Q. Well, by the time you became involved in the whole
25 question of warning labels, had the decision been made, as
26 far as you knew then, to place a warning label on Flintkote
27 products?

28 A. Yes, sir.

1 Q. And it was down to deciding what the wording of that
2 label would be?

3 A. Yes, sir.

4 Q. And you were involved in that.

5 A. Yes, sir.

6 Q. Do you know when that was?

7 A. It was sometime after 1974.

8 Q. Do you know when the question of whether to place a
9 warning label on any Flintkote product was first considered
10 by anyone in the company?

11 A. No, I don't know when it was first considered.

12 Q. In attempting to answer interrogatories or respond
13 to requests for admissions, have you searched the corporate
14 records to try to determine the answer to that question?

15 A. I have sought reliable information.

16 Q. And what did you learn?

17 A. What did I learn?

18 Q. What did you learn when the question of warning
19 labels was first considered by the company?

20 MR. SCHROETER: When you say warning labels,
21 I take it you're speaking of labels warning about asbestos
22 in some fashion.

23 MR. SILBERFELD: Sure.

24 MR. SCHROETER: Not solvents or any other
25 substance.

26 MR. SILBERFELD: Asbestos.

27 THE WITNESS: Yes. I investigated to
28 determine when labels were placed on those products that we

1 labeled, and this work was -- I did this work in or since
2 1980, in trying to define the date parameters of when
3 certain labels were used, warning labels were used.

4 MR. SILBERFELD: Q. Were you actually able to
5 put dates on certain labels?

6 A. Yes, we have done that.

7 Q. We'll talk about the specific labels a little later.

8 In this kind of reconstruction of what went on
9 concerning warning labels that were conducted since 1980,
10 were you able to determine when the question of whether or
11 not to put a label on any asbestos-containing product
12 was first considered by anyone at the company?

13 A. I don't know when.

14 Q. Do you know by decade, whether it was the '70's,
15 the '60's or before?

16 A. I don't care to guess.

17 Q. I don't want you to guess. If you have an estimate
18 for us as to a decade, we're entitled to that.

19 A. 1970's.

20 Q. Do you know what classes of products received the
21 first warning label that Flintkote used on any of its
22 asbestos-containing products?

23 A. I don't know what product came first.

24 Q. Well, do you know any of the products that received
25 a warning label?

26 A. Yes.

27 Q. Which ones?

28 A. Floor tile received a warning label.

1 Q. Do you know when?

2 A. I don't remember the date. Sometime in the '70's.
3 These dates are in exhibits.

4 Q. Any of the liquid products receive a warning?

5 A. To the best of my knowledge, we had one liquid
6 product with a warning on it.

7 Q. Did any of the shingle products receive a warning?

8 A. They were discontinued before warning labels were
9 used.

10 Q. And was the cement pipe still a manufactured product
11 at the time that the warning label issue came up?

12 A. No label was used. It was in the form of a work
13 practice pamphlet.

14 Q. Did you participate, Mr. Hooker, in any discussions
15 within Flintkote with regard to the advisability of putting
16 warning labels on raw material, namely, raw asbestos, shipped
17 out by Flintkote Mines?

18 A. Yes.

19 Q. And when did that discussion first take place or
20 when did that consideration first come up?

21 A. I believe it was in the late '60's. It could have
22 been early '70's.

23 Q. Do you know how that issue was first raised, how it
24 came up or how Flintkote first learned for it?

25 A. Yes.

26 Q. How?

27 A. Other asbestos producers in Canada decided to label
28 their products.

1 Q. Do you know what the gist of the warning label was,
2 without regard to the exact words?

3 A. The gist was, any dust inhaled from this material
4 could be injurious to your health.

5 Q. Was Flintkote's decision to label its raw asbestos
6 emanating from Flintkote Mines a voluntary decision or one
7 imposed by some regulatory agency, if you know?

8 A. Voluntary.

9 Q. And it was in keeping, I take it, with what other
10 producers were doing.

11 A. Yes.

12 Q. As far as you know, did the knowledge of potential
13 health hazards associated with asbestos exposure in the
14 manufacturing setting result in any change in work practices
15 at any Flintkote manufacturing facility?

16 MR. SCHROETER: Objection. Vague. Whose
17 knowledge?

18 MR. SILBERFELD: Flintkote's knowledge.

19 MR. SCHROETER: Mr. Hooker's knowledge?

20 MR. SILBERFELD: Mr. Hooker, and anyone he
21 passed it along to.

22 MR. SCHROETER: Anybody else that knew it from
23 any other source?

24 MR. SILBERFELD: I'm sorry. He was rustling
25 the paper. I didn't hear you.

26 MR. SCHROETER: Are you including in the
27 question anybody, including those that he didn't talk to
28 that knew it on their own from any other source?

1 MR. SILBERFELD: Let's start with Mr. Hooker
2 and who Mr. Hooker would have advised in the normal course
3 of his practice.

4 Q. Do you know, sir, whether the transmission of that
5 knowledge about the health effects to manufacturing
6 employees resulted, in fact, in the change of any work
7 practices at any Flintkote manufacturing facility?

8 A. Yes, sir.

9 Q. What changes?

10 A. One I can specifically remember is going from sweeping
11 to vacuuming asbestos for cleanup purpose in the plant.

12 Q. Do you know where that was instituted?

13 A. Best of my knowledge, in all of our plants using
14 asbestos fiber at the time that was implemented.

15 Q. Do you know when it was implemented?

16 A. Sometime in the '70's. I don't know the date.

17 Q. Before 1975 or after? If you can break it down
18 that way.

19 A. I think it was after 1975.

20 Q. And was this change of procedure part of a nationwide
21 change in practices?

22 A. Yes.

23 Q. Do you know who it was that was instrumental in
24 seeing that that change take place within Flintkote?

25 A. I don't know specifically who instructed our
26 facilities to take that action.

27 Q. But you know, in fact, that it was done?

28 A. Yes, sir.

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1 Q. Can you name any other changes in manufacturing
2 procedures or steps that were instituted after it became
3 known that there was a health risk associated with asbestos
4 exposure to manufacturing employees?

5 A. Bagging asbestos in plastic rather than in paper,
6 so that we could introduce the empty bags into the mixing
7 process for floor tile and not have to dispose of them,
8 was a procedure.

9 Q. By that, do you mean rather than emptying bags in
10 the mixing process, you'd put the whole bag in?

11 A. I don't recall whether we put the whole bag in or --
12 We made an effort to do that, I know, because we changed
13 the weights in the bags to accommodate a batch requirement.
14 And I can't remember whether we were able to do it throughout
15 all of our facilities or not.

16 Q. So you're not sure whether that was across the board
17 in every plant; is that correct?

18 A. Other than the disposal of the bag, the plastic bag
19 was disposed of then in the mixing process rather than
20 being handled and sent to a dump.

21 Q. Any other changes in manufacturing that you can
22 recall nationwide, or at least in a large number of the
23 manufacturing facilities, after the knowledge of the health
24 effects that you know of?

25 A. I can't think of any others.

26 Q. Do you know whether, at anytime, any wet handling
27 procedures were instituted at any manufacturing plant to
28 cut down on dust created by the process?

1 A. I know of none.

2 Q. Do you know if any changes were made at any
3 manufacturing facility in any Flintkote operation in the
4 United States concerning ventilation of the ambient atmos-
5 phere in a manufacturing facility?

6 A. Not that I know of.

7 Q. Do you know whether any changes were made in any
8 manufacturing facility, in terms of point of operation
9 dust controls, after the health effects of asbestos exposure
10 became known?

11 A. Not specifically. But there were changes made as
12 the state of the art improved.

13 Q. Do you know whether the use of respirators became
14 an accepted practice as a result of this knowledge being
15 transmitted to other people at Flintkote other than you?

16 A. The use of respirators became what?

17 Q. Widespread among manufacturing workers.

18 A. I do not know of any widespread use of respirators
19 in our plants.

20 Q. Now when you first learned of the potential
21 health effects of asbestos exposure in the mines and mill
22 workers, did you learn what types of illness or malady
23 those people were at risk of contracting?

24 A. At that point in time, all I knew is they were lung
25 diseases, and the word cancer was used.

26 Q. When you first learned that workers in the manufac-
27 turing setting were at risk to contract disease from exposure
28 to asbestos, were the types of diseases the same as you just

1 mentioned?

2 A. Yes, sir.

3 Q. And when you first learned that persons exposed to
4 finished or manufactured products were at risk of
5 contracting disease, were the diseases the same as those
6 you've just mentioned?

7 A. My knowledge grew all at the same time. It was no
8 different for exposure to fiber in one location versus
9 another.

10 Q. In your role, Mr. Hooker, as the manager of purchasing
11 for the Building Materials Division, did you play any part
12 in the evaluation of workers' compensation claims made by
13 Flintkote manufacturing employees?

14 A. No, sir.

15 Q. Was there a person at Flintkote who was charged with
16 that responsibility on a corporate level?

17 A. I don't know.

18 Q. Do you know how the workers' compensation claims
19 of various manufacturing plants were handled within
20 Flintkote in the 1960's and 1970's?

21 A. No.

22 Q. Do you know whether any employee of Flintkote has
23 at anytime made a claim of occupation disease, lung disease,
24 from exposure to asbestos?

25 A. I have been told that there are some claims made.

26 Q. Do you know when the first such claim was made?

27 A. I do not.

28 Q. Do you know how many such claims have been made?

1 A. I do not.

2 Q. Have you at anytime participated in the evaluation
3 of any workers' compensation claim made by a Flintkote
4 employee claiming occupational disease from exposure to
5 asbestos?

6 A. Not the evaluation of the claim, no.

7 Q. Specifically, have you at anytime participated in
8 the decision making as to whether or not to pay such a claim?

9 A. No, sir.

10 Q. We've spent a fair amount of time talking about the
11 job titles that you've had.

12 In the course of your almost forty years working
13 with Flintkote, have you served on any corporate committees
14 that had to do with any internal functions of the company?

15 A. Not designated as such, no.

16 Q. Have you been assigned to any special tasks or
17 projects by your superiors which were not particularly well
18 defined within your job at any moment in time? Did you have
19 any special tasks or projects over the course of your career?

20 A. One way or another, they were always defined by my
21 job title -- job titles, with the exception of asbestos
22 interrogatories, requests for admissions.

23 Q. That's a very special job.

24 A. That has never been defined.

25 Q. Want to take a break?

26 Off the record.

27 (Whereupon, there was a recess taken at 2:20 o'clock
28 p.m., and the deposition resumed at 2:50 o'clock p.m.)

EXAMINATION BY MR. JAMES MILLER

1
2 MR. JAMES MILLER: Q. Mr. Hooker, my name is Jim
3 Miller, and I represent, in this proceeding, the Grisham &
4 Cannon firm in Long Beach, and also a number of plaintiffs
5 in the Bay Area.

6 Forgive me for asking, sir, would you tell us your
7 date of birth?

8 A. February 23rd, 1920.

9 Q. And what was your education prior to joining
10 Flintkote?

11 A. Graduated from the University of Southern California,
12 business administration/industrial engineering.

13 Q. Did the courses that you had in college have anything
14 to do whatsoever, to the best of your recollection at this
15 time, with industrial hygiene?

16 A. No, sir.

17 Q. You told us that, at some point in time before
18 joining Flintkote, you had the opportunity to do some floor
19 tile laying. Was that summer employment?

20 A. I'm sorry, there is a misinterpretation of what I
21 said. I said I used floor tile as a layman. It was not
22 prior to my employment with Flintkote. It was during the
23 course of the years I've been with Flintkote.

24 Q. You redid the --

25 A. My own kitchen.

26 Q. What type of employment did you have prior to
27 joining Flintkote?

28 A. Worked in corrugated box factories, sold haberdashery,

1 worked in Treesweet product orange juice manufacturing
2 company.

3 Q. Nothing that's relevant to the discussion today
4 about asbestos products or usage?

5 A. No, sir.

6 Q. While you were employed in the Los Angeles or
7 Vernon, California, area, do you recall whether Flintkote
8 Corporation used any diatomaceous earth in their products?

9 A. They did.

10 Q. What products were those?

11 A. Liquid products.

12 Q. Such as what, sir?

13 A. Industrial coatings and adhesives. I do not know
14 the specific products, but I purchased it.

15 Q. From whom did you purchase diatomaceous earth?

16 A. Johns-Manville.

17 Q. Up to the time of 1956, do you recall any discussions
18 or reading any materials including warning labels on
19 diatomaceous earth products?

20 A. No, I have no recollection whatsoever of warning
21 labels.

22 Q. Do you recall any labor difficulty that occurred at
23 Johns-Manville facilities in Southern California which
24 may have interrupted diatomaceous earth supplies to Flintkote?

25 A. Not to my memory.

26 Q. During the time that you were a salesman in Los
27 Angeles, do you recall any interruption in the supply of
28 asbestos to Flintkote manufacturing facilities?

1 A. I don't recall any interruptions during that period
2 of time.

3 Q. Do you have any information at this time concerning
4 a strike that occurred in the asbestos mines in Quebec in
5 1948, 1949?

6 A. Sir, I can only recall that during the course of
7 my assignment in the purchasing function, there were times
8 when asbestos was short because of strikes in Quebec, Canada.
9 I cannot identify the dates.

10 Q. Either at that time or subsequently in your position
11 as a sales manager for Flintkote Mines, were you made aware
12 that any of those labor difficulties in Quebec had to do
13 with the health hazards of asbestos products?

14 A. Not that I recall.

15 Q. You indicated, at least the one reference to the type
16 of asbestos used by Flintkote, you mentioned chrysotile
17 asbestos. Do you recall whether any Flintkote product
18 contained any other type of asbestos at anytime since your
19 association with the company?

20 A. Yes.

21 Q. What types of asbestos would those have included?

22 A. The only other one specifically I remember is
23 crocidolite, used in the asbestos cement pipe, commonly
24 referred to as blue fiber after.

25 Q. Did you have any responsibility, either in Los Angeles
26 or in any other location, for the purchase of crocidolite
27 asbestos?

28 A. At one point in time, I was involved in the purchase

1 of fiber from the -- or as in stockpile by the General
2 Services Administration, when they released strategic --
3 previously held strategic materials. And purchases were
4 made from stockpile, either directly or through agents.

5 Q. Do you recall a time frame with respect to those
6 purchases?

7 A. I have to guess. 19 -- Must have been in -- I'm
8 sorry, it was after 1962. That's all I can tell you. I
9 don't know at what point.

10 Q. Was crocidolite also used in your asbestos cement
11 shingles and hardboard that you mentioned?

12 A. No, sir.

13 Q. Did the hardboard or shingles have a particular
14 trade name that was attached to them?

15 A. Again, I'm trying to be specific, and I can't be.
16 I cannot be specific. I do not remember.

17 Q. Do you recall, sir, the period of time during which
18 asbestos sheets or board was made by Flintkote Company?

19 A. They were being made when I came to work for Flintkote
20 in 1946, and they were discontinued sometime in the '60's.

21 Q. What facilities were making those products, to the
22 best of your recollection, in 1946 through the '60's?

23 A. East Rutherford, New Jersey; Chicago Heights, Illinois;
24 New Orleans, Louisiana; and San Bernardino, California.

25 Q. What products were made in San Bernardino, other
26 than asbestos cement shingles and board?

27 A. None.

28 Q. Do you have any idea as to the operating time frame

1 of that plant, from when to when?

2 A. 1950's until 19 -- sometime in the early '60's.

3 For a matter of record, it's in the exhibits.

4 Q. Do you have any idea at this time what percentage
5 of the market Flintkote enjoyed in the State of California
6 for asbestos cement shingles or asbestos board?

7 A. Absolutely no idea.

8 Q. Do you know how that was those two products were
9 distributed into users' hands in the State of California?

10 A. To the best of my recollection, through our regular
11 building material distributors.

12 Q. Were those owned by Flintkote Corporation or
13 independent companies?

14 A. Independent companies.

15 Q. Earlier, you mentioned some contact with Ruberoid
16 Company and with Nicolet. Can you give me a time frame
17 for Ruberoid and in what regard you had some dealings with
18 that company?

19 A. During the course of my span in trade relations,
20 Ruberoid became part of GAF, and I had contact with the
21 Ruberoid-GAF organization.

22 Q. Were you selling products to Ruberoid Corporation
23 or buying products from them?

24 A. Selling.

25 Q. What type of products were you selling to them?

26 A. Corrugated shipping containers.

27 Q. Were you selling any asbestos fiber to Ruberoid,
28 to the best of your knowledge?

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1 A. At one point in time, Flintkote sold asbestos fiber
2 to Ruberoid. Flintkote Mines, Limited, sold asbestos fiber
3 to Ruberoid.

4 Q. Can you tell us that point in time?

5 A. I don't remember.

6 Q. You also mentioned some relationship in a corporate
7 level with Nicolet Company. Can you tell us in what respect
8 that was?

9 A. The corporate relationship was late in my years in
10 the corporate level of the company. And I'm trying to
11 remember the circumstances. The president of Nicolet
12 was contacted in connection with the sale of property that
13 Flintkote Mines, Limited owned in Quebec. And the time
14 frame, this was in the '70's, early '80's.

15 Q. To the best of your knowledge, did Flintkote Mines
16 ever sell asbestos fiber to Nicolet?

17 A. To the best of my knowledge, no, it did not.

18 Q. Did Flintkote ever purchase asbestos fiber from
19 Nicolet?

20 A. Not to my knowledge.

21 Q. By the way, do you know from what source the
22 crocidolite was purchased?

23 A. The one which I've mentioned was stockpile, from
24 government stockpile. And other than that, there were
25 three companies representing various producers of African
26 crocidolite fibers, that I recall. And I don't -- I was
27 not -- I did not place the orders specifically for the
28 fibers, so I'm not positive of who we purchased the fiber

1 from. But there were three companies that --

2 Q. Do you recall who those companies were?

3 A. Standard Asbestos, Huxley Development. There's one
4 other.

5 Q. North American Asbestos?

6 A. North American Asbestos.

7 Q. Do you recall receiving sales calls from persons
8 representing those three companies in connection with the
9 sale of crocidolite?

10 A. Standard Asbestos called on me.

11 Q. Do you have any recollection today as to who that was?

12 A. I can picture him. I can't name him.

13 Q. Can you tell me, sir, when the first time that you
14 visited your mine in Thetford Mines was?

15 A. 1969.

16 Q. In connection with that visit to Quebec, did you
17 visit the facilities of any other companies?

18 A. Yes.

19 Q. Who? Which other facilities?

20 A. If I can recall correctly, too. One was then
21 National Asbestos, and the other was Johns-Manville.

22 Q. At Asbestos Quebec?

23 A. Asbestos Quebec.

24 Q. Where was the national mines? In Thetford?

25 A. Thetford Mines.

26 Q. In connection with your activities as sales manager
27 for the mines, did you have any discussion with any of
28 your colleagues within Flintkote Corporation regarding the

1 effect on sales that a warning label on fiber packages
2 would have?

3 A. Not that I recall.

4 Q. Do you recall whether labeling of fiber insofar as
5 the effect of such a label on sales occurred to you? Was
6 that something that you considered at the time of
7 deliberating whether to put a label on? And if so, what
8 kind of label?

9 A. I can only say I'm sure some consideration was
10 given to it at that time.

11 Q. You indicated that as part of your activities as
12 sales manager of the mine, you sold to Raybestos-Manhattan,
13 Celotex, Huxley, and I think you indicated that the sales
14 to Johns-Manville took place in Canada rather than the
15 United States.

16 A. Yes, sir.

17 Q. Was that an F.O.B. type sale that occurred in Thetford
18 Mines?

19 A. The policy of Flintkote Company was to sell their
20 fiber F.O.B. Thetford Mines.

21 Q. So that in any case that you recall, did Flintkote
22 Mines or Flintkote Corporation retain title to the fiber
23 until it was delivered to the customer?

24 A. Other than our own plants, no.

25 Q. Did you purchase any materials, asbestos fiber,
26 basically, from Carey Canada or Carey Canadian Mines?

27 A. As sales manager for the mines?

28 Q. Well, basically, as director of purchasing of the

1 corporation, as sales manager.

2 A. The purchases of all Quebec fiber for The Flintkote
3 Company were made -- that's in the United States -- were
4 made by Flintkote Mines, Limited.

5 Q. Do you know whether Flintkote Mines had to purchase
6 any fiber from other sources in order to cover its own
7 delivery commitments?

8 A. Yes.

9 Q. From whom would you purchase those supplies?

10 MR. SCHROETER: Excuse me. From who would
11 Flintkote Mines purchase them?

12 MR. JAMES MILLER: Right.

13 THE WITNESS: Carey, Johns-Manville,
14 National Asbestos Corporation.

15 MR. JAMES MILLER: Q. The reason why I'm asking
16 is, I don't --

17 A. Those are basically the sources.

18 Q. One of the documents that we just saw here pertained
19 to rail deliveries of asbestos fiber from Carey. And
20 that's why I asked if --

21 A. Uh-huh.

22 Q. -- indeed Flintkote was purchasing asbestos fiber
23 from Carey as well as from Asbestos Corp., Limited and
24 other sources.

25 Q. Flintkote Mines purchased the fiber for The Flintkote
26 Company.

27 Q. From a variety of sources, and you've named several.

28 A. Those in Quebec.

1 Q. One of the companies that's listed in this
2 exhibit, which is the "Summary of Fiber Used by The
3 Flintkote Company," is Asbestos Corporation, Limited.

4 A. Yes, sir.

5 Q. Did you purchase fiber for Flintkote's manufacturing
6 operation from Asbestos Corporation, or merely to cover
7 Flintkote Mines' delivery commitments, or both?

8 A. Flintkote Mines purchased asbestos fiber from the
9 Canadian producers as required by the Flintkote facilities
10 in the United States. To restate it, the Flintkote
11 manufacturing facilities in the United States placed their
12 orders for Quebec fiber, regardless of its producer, on
13 Flintkote Mines, Limited.

14 Q. And they got the material from their own mines and
15 from a variety of other sources?

16 A. And other sources, correct.

17 MR. SCHROETER: Counsel, for the record, give
18 us a quick identification of the exhibit you mentioned
19 moments ago.

20 MR. ROSEN: The exhibit which Mr. Miller
21 was reading and asking that last question was Exhibit B
22 in the Beauregard-St. Jacques action that we've indicated
23 earlier.

24 MR. SCHROETER: Of the date of the action?

25 MR. GRELL: There's no date of verification.
26 But the proof of service is dated September 9th, 1983.

27 MR. SCHROETER: Thank you very much.

28 MR. JAMES MILLER: Q. We've just discussed the

1 source of supply for consumption by Flintkote in its
2 manufacturing operation. I'm also asking whether fiber
3 was purchased from other mines for delivery by Flintkote
4 Mines to your mining company customers that you've identified
5 selling to them.

6 A. Would you restate the question?

7 Q. Was it necessary at sometime during the tenure of
8 your position as sales manager of the mine to acquire
9 fiber from other mines for delivery to your Flintkote Mines
10 customers?

11 A. Yes, sir.

12 Q. And were the sources of those purchases the Canadian
13 producers of chrysotile asbestos that we talked about
14 earlier?

15 A. Yes, sir.

16 Q. Did those mines include Lake Asbestos?

17 A. Yes, sir.

18 Q. Do you have any indication at this point as to how
19 much fiber was purchased from Lake Asbestos in the period
20 of time from 1969 to 1982?

21 A. Hundreds of tons. I don't know how many hundreds.

22 Q. Do you know whether that material was sold to
23 customers of Flintkote Mines or whether that was consumed
24 in the products manufactured by Flintkote Corporation, or
25 both?

26 A. To the best of my knowledge, the majority of it was
27 used internally by Flintkote. There was some sold to other
28 companies.

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1 Q. When Flintkote Mines would use fiber produced by
2 another mine in order to meet its commitments to its
3 customers, would those packages be rebranded to carry the
4 Flintkote Mines logo?

5 A. Only if the sale was to be made to somebody else
6 other than Flintkote.

7 Q. Would those be repackaged at the source of the fiber?
8 In other words, Lake or Asbestos Corporation, Limited or
9 Carey or National or Johns-Manville?

10 A. They were labeled at the source of manufacture.

11 Q. I assume that Flintkote Mines continued as an
12 active sales corporation after the Flintkote mine was closed
13 in about 1972; is that true?

14 A. That is correct.

15 Q. Is it still an active corporation in that regard?

16 A. Not in that regard.

17 Q. What is its function at this point in time?

18 A. Dormant.

19 Q. When did it go into dormancy?

20 A. I believe in 1981.

21 Q. To the best of your knowledge, did Flintkote Mines
22 sell fiber to the U.S. Government, aside from the limited
23 sales of finished products that you described earlier?

24 A. Flintkote Mines manufactured only saw asbestos fiber
25 and did not sell any to the U.S. Government.

26 Q. Did you sell fiber to other mining companies? Did
27 Flintkote Mines sell fiber to other mines?

28 A. Yes, sir.

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1 Q. Let's talk about your gypsum products for a moment.
2 I understand that Flintkote sold gypsum wallboard for a
3 period of time during your tenure with the corporation.

4 A. Yes, sir.

5 Q. I also understand that that wallboard itself did
6 not contain asbestos. Is that your understanding as of
7 this time?

8 A. That is my understanding as of this time.

9 Q. And you've indicated earlier today that you began
10 selling joint compound for wallboard treatment sometime
11 in the late '50's, which was manufactured by companies
12 other than Flintkote.

13 A. "You," meaning --

14 Q. Not Mr. Hooker personally, but Flintkote Corporation.

15 A. You are correct.

16 Q. Do you recall whether there was any particular brand
17 now which was associated with those products?

18 A. Only the Flintkote label.

19 Q. Do you recall whether you sold the joint tape as
20 well as compound?

21 A. I don't believe we did. I can't recall of ever
22 selling tape.

23 Q. Was that also distributed, at least in the State of
24 California, through the building material dealings that
25 you mentioned previously?

26 A. Not always. It was, in some instances, sold through
27 a distributorship.

28 Q. How else would it be distributed?

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1 A. Through our own distribution company, Flintkote
2 Supply.

3 Q. And where is Flintkote Supply located?

4 A. They had -- Over a period of years, they have had
5 supply distribution centers in various locations, and then
6 some of them don't exist anymore. From one point in time
7 to another, we had Riverside, California; San Jose; San
8 Leandro; San Diego. And there were other locations in
9 California.

10 Q. Do you recall the names of any of the building
11 material dealers that have offices in Northern California
12 or had distribution points in Northern California?

13 A. Building material dealers. Malott and Peterson is
14 one.

15 Q. They were a Flintkote distributor?

16 A. Yes, sir.

17 Q. Any others that come to mind?

18 A. That's the only one that comes to my mind immediately.

19 MS. ANGER: Would you repeat that name
20 again?

21 THE WITNESS: Malott, M-a-l-o-t-t, and
22 Peterson.

23 MS. ANGER: Thank you.

24 MR. JAMES MILLER: Q. Do you recall ever putting
25 or seeing a warning label placed on Flintkote's joint
26 compound?

27 A. I have never seen it literally placed on the
28 compound.

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1 Q. Very funny.

2 MR. JUDY: It was.

3 MR. JAMES MILLER: Q. Do you recall seeing a
4 warning label on the container of Flintkote joint compound?

5 A. In pictures, yes.

6 Q. Can you tell us today approximately when that label
7 was first put on joint compound?

8 A. I have to guess. It's in exhibits, but I'm guessing
9 now. Sometime in the early '70's.

10 Q. At that time, were you selling dry joint compound
11 as well as ready-mixed or premixed compounds?

12 A. I only know of dry at the early stages.

13 Q. Do you know whether Flintkote ever produced a premix
14 or ready-mix?

15 A. We did not produce -- We did not produce a dry mix.

16 Q. Well, let me rephrase that. Thank you.

17 Did you ever sell a ready-mixed or premixed joint
18 compound?

19 A. Yes.

20 Q. Approximately when did that come into your product
21 line?

22 A. To the best of my knowledge, sometime in the '60's.

23 Q. Do you ever recall selling or distributing a fire-
24 proofing spray to be sprayed on girders and that sort of
25 thing?

26 A. No, sir.

27 Q. Did you ever manufacture or sell a decorative ceiling
28 type spray?

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1 A. Yes.

2 Q. Do you have any idea as to the time frame we'd be
3 talking about for that product?

4 A. Again, I'd have to guess.

5 MR. SCHROETER: When you say guess, you mean
6 you can give us some estimate?

7 THE WITNESS: Yes. The best estimate of
8 my time span -- and again, it's in exhibits, so I'm --
9 in the '60's, mid-'60's.

10 MR. JAMES MILLER: Q. It's my understanding that
11 the joint compounds that we've discussed, both the dry
12 and the ready-mixed, were asbestos containing. Do you share
13 that understanding?

14 A. Up until a certain point in time.

15 Q. And approximately when was that point in time?
16 1975, 1977?

17 A. '76 -- Around in 1976, asbestos was removed.

18 Q. And did the decorative ceiling spray that we've
19 discussed contain asbestos?

20 A. I don't know for a fact whether it did or not.

21 Q. Do you know who manufactured that, whether that was
22 in-house or whether that was rebranded by some other
23 supplier?

24 A. It was not in-house manufactured.

25 Q. Who did manufacture it?

26 A. The only one I can say for sure that I knew made it
27 for us was the Texas Textured Paint Company in Dallas.

28 And now that I recall, they did use asbestos fiber

1 in that product.

2 Q. Did you buy any of that type of material from either
3 National Gypsum or U.S. Gypsum?

4 A. I don't know for a fact.

5 "That type" being spray paint?

6 Q. Well, I'm thinking of the decorative ceiling spray.

7 A. Yeah; yeah.

8 Q. Some of the answers to interrogatories are
9 information that has been referred to previously,
10 particularly the liquid products list. You talked about
11 things like Spraykote and other materials which were meant
12 to be sprayed on, such as spray grade Railroad Car Cement,
13 Black Joint Cement, Steadfast Cement, and Van Packer Cement -
14 oh, that's not a spray. Were these dry products, Mr. Hooker?

15 A. No, sir.

16 Q. Were they already emulsified with some type of
17 asphaltic liquid at the time of delivery to the customer?

18 A. To be specific, some of them were what we call
19 cutbacks, which was solvent based, and others were emulsion
20 based products made from asphalt.

21 Q. Were any of them in powder form at the time of
22 delivery to the customer?

23 A. None of the products you've mentioned.

24 Q. Can you recall any products made or distributed
25 by Flintkote which were intended to be sprayed on that
26 were dry when delivered to customers? Powder is what I'm
27 referring to when I say dry.

28 A. Would have intended to be sprayed dry; is that the

1 question?

2 Q. No. Intended to be mixed by the customer but delivered
3 to him in the powder dry form.

4 A. Oh. Only one that I can recall.

5 Q. What is that, sir?

6 A. Super Stakool, I believe.

7 Q. What was the intended purpose of Super Stakool?

8 A. Decorative and reflectancy for roof applications.
9 It's on that exhibit. The next page back.

10 Does that not state that it's a dry mix?

11 Q. Yes.

12 A. That's the only product that I know of.

13 MR. SCHROETER: For the record, that's our
14 Exhibit 2 for this deposition.

15 MR. JAMES MILLER: Correct.

16 THE WITNESS: The only dry product on that
17 exhibit.

18 MR. JAMES MILLER: Q. Did Flintkote, to your
19 knowledge, ever own any interest in the Calaveras Cement
20 Company?

21 A. Yes, sir.

22 Q. Did Flintkote, to the best of your knowledge, ever
23 own any interest in the Calaveras Asbestos Company?

24 A. No, sir.

25 Q. Thank you very much, Mr. Hooker. That's all I have.

26 MR. SCHROETER: Back to you, Roman.

27 MR. SILBERFELD: David is going to ask some
28 questions to clean up the areas we've already covered.

1 MR. SCHROETER: Off the record.

2 (Whereupon, there was a discussion off the record.)

3
4 EXAMINATION BY MR. ROSEN

5 MR. ROSEN: Q. Mr. Hooker, my name is
6 David Rosen, by the way, and I also represent some of the
7 plaintiffs in the Los Angeles area.

8 This morning, we were talking about some in-house
9 legal personnel of the Flintkote Company. And you mentioned
10 Seth Smith and Tony McCloud. Do you recall that?

11 A. Yes.

12 Q. You said that you aren't sure where McCloud is now.
13 Do you know if he's practicing law?

14 A. I don't know for sure.

15 Q. Mr. Hooker, who is William H. Mortonson?

16 A. Retired. Last responsibility was the manager of
17 our industrial products department of the Flintkote
18 Building Materials Division.

19 Q. Did Mr. Mortonson ever have any responsibility during
20 your time with the company as manager of technical services
21 for The Flintkote Company?

22 A. Yes.

23 Q. In that capacity, did he have any responsibility
24 for the formulation or determining the formulation of any
25 of Flintkote's products?

26 A. I can't answer that.

27 Q. Based upon your knowledge of the company in all your
28 years with the Flintkote Company since '46, can you give me

1 the names of any Flintkote employees who were responsible
2 for making decisions as to the formulation of Flintkote
3 products?

4 A. Can you ask me what products?

5 Q. If that will make it easier, sure.

6 A. It's impossible for me to try to --

7 Q. All right.

8 Is industrial products too large of a category, since
9 that's one of your categories?

10 A. No. That's fine.

11 Q. Why don't we try that first.

12 A. During the full period of my time with Flintkote?

13 Q. At anytime.

14 A. Jonathan Tanneman.

15 Q. What was that last name?

16 A. Tanneman, T-a-n-n-e-m-a-n.

17 And we're talking industrial products now?

18 Q. Yes, sir.

19 A. His superiors currently, Bill Bradley, Dr. John
20 Stanko, S-t-a-n-k-o.

21 I'm sorry, I can't pick anymore in that product
22 category. I can't name anymore in that product category.

23 Q. Again, using that entire time span that you've been
24 with the company, can you give us the names of the persons
25 who were responsible for the formulation in your liquid
26 products category?

27 A. Those are the ones I just names. Industrial and
28 liquid products are synonymous, as far as our company is

1 concerned.

2 Q. Are you including in the industrial products
3 division or category the asbestos cement board?

4 A. No, sir.

5 Q. Can you give me some formulation personnel in that
6 category?

7 A. I did not know who those people were.

8 Q. Same question for asbestos cement pipe.

9 A. No. I have forgotten their names -- his name.

10 Q. The individual that you're thinking of whose name
11 you have forgotten, is he still in the position of --

12 A. (Witness shakes head in a negative manner.) He is
13 no longer with the company. We no longer make the product.

14 Q. I think you mentioned earlier in your testimony that
15 Flintkote, around the time that you started with the
16 company in 1946, purchased the Flooring Division from
17 Tiletex; is that correct?

18 A. Yes.

19 Q. Do you have any knowledge as you sit here today
20 of the contract of sale between Tiletex and Flintkote for
21 that division?

22 A. No, sir.

23 Q. Do you know where a copy or the original of that
24 contract of sale would be stored today?

25 A. Other than in corporate records, if it exists.

26 Q. If it did exist, where would those corporate records
27 be?

28 A. I don't know.

1 Q. Also with respect to the years around 1946 when
2 you first started with the company in the Vernon facility,
3 you mentioned that one of the operations of the Vernon
4 facility was a paper mill; is that correct?

5 A. Yes, sir.

6 Q. And then I think later on in your testimony you
7 referred to the manufacture of felt at the Vernon facility;
8 is that correct?

9 A. Yes.

10 Q. Was the manufacture of the felt at the Vernon
11 facility a function of the paper mill?

12 A. Yes, sir.

13 Q. Did that felt contain asbestos?

14 A. No, sir.

15 Q. During the time that you were assistant director
16 of purchasing between '52 and '56, you stated that your
17 company purchased chrysotile asbestos in a very large
18 proportion from Flintkote Mines, but also that some of that
19 type of product was purchased from Atlas Asbestos and
20 Pacific Asbestos. Do you recall that?

21 A. Yes, sir.

22 Q. Are you able, as you sit here today, to tell us
23 whether Flintkote purchased more chrysotile from Atlas
24 Asbestos or Pacific Asbestos during those years?

25 A. I can't remember.

26 Q. You indicated earlier in your testimony that the
27 sanding of floor tile was not an accepted practice. Do
28 you recall that?

1 A. Yes, sir.

2 Q. And I think you further indicated that that was
3 true, as far as you were concerned, since the 1940's.

4 A. Yes, sir.

5 Q. Why, if you know as you sit here today, was the
6 sanding of floor tile not an accepted practice in the
7 1940's?

8 A. The questions that were presented to me at that
9 time came in the sequence which my responses need to be
10 corrected.

11 In sanding any product, dust is created and a
12 potential hazard exists. And in 1946 and up until the
13 time when we became more aware of the hazards of asbestos
14 fiber, dust was the problem, be it -- or the issue, be it
15 in the product or other places.

16 And when we later put a label on our floor tile,
17 it related to asbestos dust. This label was put on sometime
18 in the '70's.

19 Q. You're referring to a warning label now? Excuse me.

20 A. Yes. Yes, sir.

21 So as a general rule, sanding of floor tile just
22 was not an accepted practice. Back in the early days, it
23 was for dust reasons.

24 Will you go from there with your questioning?

25 Q. Are you through with your answer?

26 A. Yes.

27 Q. Sure.

28 During the time that you were with The Flintkote

1 Company in any capacity from 1946 to the present, did you
2 at anytime become aware of which trade, which labor trade,
3 would be caused to use Flintkote floor tiles in the course
4 and scope of their employment?

5 A. Not specifically.

6 Q. Are you familiar with the trade of floor covering?

7 A. Yes, sir.

8 Q. It's true, isn't it, that floor coverers, during
9 the entire time you've been with The Flintkote Company,
10 are caused to use floor covering products, including those
11 which are manufactured by The Flintkote Company in the
12 course and scope of their manufacturing?

13 A. Yes, sir.

14 Q. You're aware that floor coverers, in the course and
15 scope of using floor cover products, including those
16 manufactured by Flintkote, sand those products?

17 A. Not as a general practice.

18 Q. Just so it's clear for the record, I'm not asking
19 you whether you consider it an accepted practice. I'm
20 asking you whether you are aware if the sanding takes place.

21 A. I can only answer that on the basis that it could
22 take place. I have never seen it done.

23 Q. At anytime during your employment with The Flintkote
24 Company, did the floor covering products that The Flintkote
25 Company made contain linoleum?

26 A. No, sir.

27 Q. Did those same floor covering products contain
28 vinyl?

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1 A. Yes, sir. That is, our floor tile -- it being the
2 same -- contained vinyl.

3 Q. That's what I'm asking, sir.

4 And it's true, isn't it, that the vinyl floor
5 covering products that The Flintkote Company manufactured
6 also contained asbestos?

7 A. Yes, sir.

8 Q. We were talking earlier about Exhibit B to your
9 answers to our interrogatories, which I don't know if we
10 have numbered for the purpose of this deposition. Exhibit B
11 was the exhibit we were discussing during Mr. Miller's
12 questioning.

13 MR. SCHROETER: Why don't you separate it,
14 and let's make it Exhibit 3 to this depo.

15 MR. ROSEN: Off the record.

16 (Whereupon, there was a discussion off the record.)

17 (WHEREUPON, A PHOTOCOPY OF
18 A TWO-PAGE DOCUMENT ENTITLED
19 "SUMMARY OF FIBER USED BY THE
20 FLINTKOTE COMPANY (1961-1971
INCLUSIVE)" WAS MARKED AS
PLAINTIFFS' EXHIBIT NO. 3 FOR
IDENTIFICATION.)

21 MR. ROSEN: Back on the record.

22 We have identified now as Plaintiffs' Exhibit 3 for
23 this deposition the two-page document which is entitled
24 "Summary of Fiber Used by The Flintkote Company" between
25 '61 and '71, inclusive, and which was also attached as
26 Exhibit B to Flintkote's answers to the St. Jacque and
27 Beauregard answers to interrogatories.

28 Q. Sir, you have that document in front of you now?

- 1 A. Yes, sir.
- 2 Q. Did you prepare that document?
- 3 A. No, sir.
- 4 Q. Do you know who did?
- 5 A. No, sir.
- 6 Q. Was it prepared at your direction?
- 7 A. No, sir.
- 8 Q. If you look at the producers of asbestos fiber
9 that are listed on the two-page document, Flintkote Mines,
10 Limited is not listed; is that correct?
- 11 A. Yes, sir.
- 12 Q. You have testified today, however, that Flintkote
13 Mines, Limited was a major supplier of fiber used by
14 The Flintkote Company during the years this exhibit purports
15 to discuss; is that correct?
- 16 A. Correct.
- 17 Q. Do you know if this exhibit was prepared for use
18 in answering interrogatories in this litigation?
- 19 A. I don't know.
- 20 Q. You have --
- 21 A. In what question -- What question is this exhibit
22 being used to answer?
- 23 Q. Well, for example, in the interrogatories that my
24 office propounded in the St. Jacques and Beauregard caption,
25 in answer to question No. 1 as to who was preparing the
26 answers, your name was listed.
- 27 A. That's fine. Accept it.
- 28 Q. And Exhibit B is referred to, among other places,

1 Flintkote Company between 1946 and 1960?

2 A. Yes.

3 Q. It's two pages.

4 A. Yes, they were.

5 Q. Sir, I think you've testified a number of times
6 today that one of your responsibilities in the last couple
7 of years has been preparing responses to requests for
8 admissions and interrogatories; is that correct?

9 A. Yes, sir.

10 Q. Is there anybody else from The Flintkote Company
11 that works with you in preparing those responses?
12 And I'm referring now to employees of The Flintkote Company.

13 A. Only as I request that they assist me.

14 Q. Could you give us the names of the people that have
15 assisted you in that effort, any names that you can remember?
16 And I'll exclude people that typed the answers. People
17 that found information relating to the answers.

18 A. Our advertising manager in connection with certain
19 questions. Depended on the question, depended upon who
20 I went to to get help. Could have been the advertising
21 manager, the product manager, the manufacturing manager.
22 It could have been the safety director. It could have been
23 a purchasing agent at a plant level. It could have been
24 the research and development representative for that
25 particular product which was involved. I could even go
26 to the accounting department and ask for help on whatever
27 records they might have in order to develop answers to
28 either interrogatories or requests for admissions. I bet

1 you I've had thirty, forty people that I could conceivably
2 and have gone to, depending on what the question is.

3 Q. Is it fair to state that you have the responsibility,
4 in addition to stating facts which are known to you
5 personally --

6 A. Yes, sir.

7 Q. -- to gather information from the company at large
8 to answer these kinds of interrogatories or requests for
9 admissions?

10 A. Yes. I think I understand your question. It is
11 my responsibility to assist our legal counsel and advisers
12 in preparing responses to questions asked, either in the
13 requests for admissions or interrogatories.

14 Q. Is there any other Flintkote Company employee who
15 has the responsibility similar to yours, to simply gather
16 the facts necessary to respond to interrogatories or requests
17 for admissions in this litigation? I'm trying to --

18 A. Other than legal counsel, I don't know of anyone.

19 Q. Now you mentioned that in gathering facts necessary
20 to respond to these discovery items, you consulted with,
21 among other departments, I'm sure, the advertising manager,
22 the manufacturing manager, the safety director, the pur-
23 chasing agents at various divisions, the research and
24 development reps at various divisions, and perhaps even
25 the accounting department. I assume from the tense of your
26 answer that you were referring to people who currently hold
27 these positions in The Flintkote Company; is that correct?

28 A. Not in every case.

1 Q. For example, have you ever gone to a former or
2 former safety directors of The Flintkote Company for help
3 in answering these discovery items?

4 A. Not a safety director.

5 Q. Who's the current safety director of The Flintkote
6 Company?

7 A. John Schmitt.

8 Q. Have you ever gone to any former manufacturing
9 managers of the company for this purpose?

10 A. Not that I recall.

11 Q. Who are the current manufacturing managers to whom
12 you've gone for help in responding to the discovery items
13 we've discussed?

14 A. Bill Carl at the Vernon, California, plant. Mario
15 Butera, B-u-t-e-r-a, who is now located in the Irving
16 office. I can't name specifically anybody else.

17 Q. In the manufacturing department?

18 A. Specifically in manufacturing.

19 Q. Who are the purchasing agents to whom you've gone
20 for help in answering --

21 A. I would have gone to Bob Knode, Harry T. Campbell;
22 I have gone to Malcolm Fogel, who's now retired from
23 Floor Tile, and I would have gone to Bert Scandelle, who
24 is now retired in the Pioneer Division. I currently go
25 to Jane Boyd, who is now at the Vernon, California, plant.

26 Q. I'm sorry, sir. What was that last name?

27 A. Boyd.

28 No longer with the company, Charlie White, who

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1 was with Orangeburg. Frank MacDonell, who was purchasing
2 agent for Orangeburg.

3 I'm running out of names.

4 Q. I think I asked you before, sir, if The Flintkote
5 Company made any linoleum floor tile products, and your
6 answer was in the negative.

7 A. That is correct.

8 Q. Did Flintkote Company ever manufacture any linoleum
9 floor coverings?

10 A. No, sir.

11 Q. Earlier today, when we were discussing your knowledge
12 relating to the nature of risks related to exposure to
13 asbestos, you mentioned that as you gradually learned that
14 there was some risk to miners and then manufacturers and
15 finally users of finished products containing asbestos,
16 you were aware generally that there was a risk of lung
17 disease and there was a mention of cancer. Is that a
18 fair characterization?

19 MR. SCHROETER: Wait a minute. The answer to
20 that, if you listened to that, he said he heard those things
21 mentioned.

22 MR. ROSEN: That's what I meant.

23 THE WITNESS: I agree.

24 MR. ROSEN: Q. Have you ever heard of a
25 disease called asbestosis?

26 A. Yes, sir. Before I heard lung cancer.

27 Q. Have you ever heard or do you have any knowledge as
28 you sit here today that exposure to asbestos carries with

1 it a risk of cancer originating in organs other than the
2 lung?

3 A. As I sit here today?

4 Q. Yes, sir.

5 A. I have heard opinions or read opinions that it does.

6 Q. When did you first become aware or read an opinion
7 that exposure to asbestos potentially carried with it a
8 risk of cancer to organs other than the lung?

9 A. Sometime during my association with Asbestos
10 Information Association, starting in the early '70's.

11 Q. Sir, are you familiar with the Resilient Floor
12 Covering Institute, the RFCI?

13 A. Yes, sir.

14 Q. Has Flintkote ever been a member of that organization?

15 A. Yes, sir.

16 Q. If you know, when did Flintkote first become a member
17 of the RFCI?

18 A. I cannot recall. It's in exhibits which you have
19 here. I'd have to guess, if you want me to.

20 Q. Well, if it's a reasonable estimate, go ahead.

21 A. Well, as I said, it's in exhibits. 1960's until
22 we closed our Los Angeles -- the last plant in 1981.

23 Q. Are you aware of any studies which were made or
24 commissioned by the Resilient Floor Covering Institute
25 with respect to asbestos health hazards associated with
26 the use of asbestos-containing floor tiles?

27 A. Not as to health hazards as such.

28 Q. Do you know whether the RFCI ever conducted or

1 commissioned any tests relating to removal procedures of
2 asbestos-containing floor tiles?

3 A. I am aware that RFCI commissioned somebody to do
4 some tests in connection with the amount of dust created
5 under certain circumstances connected with floor tile. I
6 do not know those specific circumstances. I would go that
7 far. Some report has been made. Some study has been made.

8 Q. Do you recall when that study was made? If you
9 want to give us a decade or a year --

10 A. Within the last ten years.

11 Q. Do you have any knowledge as to the results of that
12 study?

13 A. I don't remember what the results were specifically.

14 Q. Are you familiar with a document entitled "Recommended
15 Work Procedures for Resilient Floor Covering"?

16 A. Not specifically.

17 Q. Do you associate that document title with the RFCI?

18 A. Either with the RFCI or AIA. I'm not certain who
19 prepared it.

20 Q. Do you know if anybody from The Flintkote Company
21 participated in the preparation of the document that I just
22 referred to?

23 A. Not specifically.

24 Q. That is, that you're not sure, or they did not?

25 A. I am saying I don't know who would have participated
26 in it by name.

27 Q. Incidentally, sir, in some of your answers today,
28 you have stated for the record that the answer, the

1 commissioned any tests relating to removal procedures of
2 asbestos-containing floor tiles?

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4 some tests in connection with the amount of dust created
5 under certain circumstances connected with floor tile. I
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7 far. Some report has been made. Some study has been made.

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21 participated in the preparation of the document that I just
22 referred to?

23 A. Not specifically.

24 Q. That is, that you're not sure, or they did not?

25 A. I am saying I don't know who would have participated
26 in it by name.

27 Q. Incidentally, sir, in some of your answers today,
28 you have stated for the record that the answer, the

1 specific answer to a question would appear in the exhibits.

2 A. Yes, sir.

3 Q. Is it safe for us to assume that when you use that
4 phrase, the exhibits, you are referring to exhibits Flintkote
5 Company has made to their interrogatory responses?

6 A. Yes, sir. Some of the exhibits have been presented,
7 and they're already here as exhibits. Some of the informa-
8 tion is here.

9 Q. Were you ever advised or informed that asbestos
10 fibers could be released from asbestos-containing floor
11 tiles by the normal wear associated with walking on that
12 floor tile?

13 A. No, sir.

14 Q. Have you ever heard of or are you familiar with a
15 report entitled "Annual Report from the Conseil Superier
16 d'Hygiene Publique de France"?

17 A. No, sir.

18 Q. Have you ever heard of a report relating to health
19 hazards associated with exposure to floor tile, which is
20 commonly referred to as "The French Report"?

21 A. No, sir.

22 Q. Sir, do you know a gentleman named Bob Scigney,
23 S-c-i-g-n-e-y?

24 A. Yes, I've seen the name and may have met him.

25 Q. Mr. Scigney is connected with one of The Flintkote
26 Company's insurance carriers, is he not?

27 A. Yes, sir.

28 Q. Are you aware of any studies which have been

1 conducted by Mr. Scigney or at his direction or commission
2 relating to health hazards associated with exposure to
3 asbesto-containing floor tile?

4 A. No.

5 Q. Are you familiar with or aware of any studies which
6 were conducted by Mr. Scigney or at his direction relating
7 to the French study that I mentioned before?

8 A. No, sir.

9 MR. SCHROETER: Whatever that French study
10 may be.

11 MR. ROSEN: Q. Is there a medical
12 director in The Flintkote Company now?

13 A. No, sir.

14 Q. Has The Flintkote Company ever employed a person
15 in the capacity of medical director?

16 A. Not to my knowledge.

17 Q. Has The Flintkote Company ever required regular
18 physical examination for any of its employees?

19 A. Only as I have been advised. I have been advised
20 that -- yes, that medical exams for their employees have
21 been required.

22 Q. Do you know during what period of time those
23 examinations have been required?

24 A. No, I do not.

25 Q. Do you know whether those examinations were
26 required for any particular types or classes of employees
27 within The Flintkote Company?

28 A. I only know that they -- whatever the OSHA

1 regulations required, The Flintkote Company complied with.

2 Q. So if physical examinations were not specifically
3 required by OSHA regulations, The Flintkote Company did not
4 require them?

5 A. That is not so. I don't know that answer.

6 Q. Did The Flintkote Company ever have any corporate
7 connection with the Diamond Portland Cement Company?

8 A. Yes, sir.

9 Q. Are you aware of the common trade name for any of
10 the products produced by that concern?

11 A. Only as Diamond Cement.

12 Q. Have you ever heard of Blue Diamond Cement?

13 A. That's not the same company.

14 Q. You are sure that it's not the same company?

15 A. Yes, sir.

16 Q. Have you ever --

17 A. The Diamond Cement Company was a wholly owned
18 subsidiary of The Flintkote Company. Blue Diamond was
19 an acquisition, and it was not Portland Cement. It was
20 Gypsum.

21 Q. Blue Diamond, however, was also a wholly owned
22 subsidiary of The Flintkote Company?

23 A. I can't answer whether there was any period when
24 it was a division -- I mean, it was a wholly owned subsidiary
25 or it immediately became a division. I don't know that.
26 It was part of Flintkote. And in what form it was in, I
27 don't know whether it was a division or a wholly owned
28 subsidiary.

1 Q. Is Blue Diamond currently a part of Flintkote?

2 A. Blue Diamond -- The name "Blue Diamond" is no longer
3 used by Flintkote. Its facility is still in operation as
4 the Gypsum Board plant in Blue Diamond, Nevada.

5 Q. During what period of years was Blue Diamond a
6 part of Flintkote?

7 A. Still is, starting time in the '50's when we acquired
8 Blue Diamond.

9 Q. Thank you very much, sir.

10 A. Uh-huh.

11 MR. SCHROETER: Mr. Rosen, to complete the
12 record you've so carefully tried to make, would you tell
13 the record who the author of that so-called French report
14 that you were referring to was?

15 MR. ROSEN: I think it's the French
16 Government. I think I said that, too.

17 MR. SCHROETER: Well, that's when you were
18 speaking French.

19 MR. ROSEN: A very charitable admission
20 by you.

21 The report, once again, in English, I think would
22 translate as the Annual Report from the Superior Counsel
23 of Hygiene of France.

24 MR. SCHROETER: I see. And it has no author.

25 MR. ROSEN: Well, it has no individual
26 author that I'm aware of. I'm sure it does have an author.

27 MR. SCHROETER: And that is the item that
28 you spoke of as the, quote, "French Report," unquote?

1 MR. ROSEN: That's my belief.

2 MR. SILBERFELD: The French have a different
3 word for everything.

4 Anybody else want to ask anything before I go on?

5 (No response from the floor.)

6 (WHEREUPON, A PHOTOCOPY OF A
7 ONE-PAGE DOCUMENT ENTITLED
8 "CONTAINS ASBESTOS DUST" WAS
9 MARKED AS PLAINTIFFS' EXHIBIT
10 NO. 4 FOR IDENTIFICATION.)

11 FURTHER EXAMINATION BY MR. SILBERFELD

12 MR. SILBERFELD: I have marked as Plaintiffs'
13 Exhibit 4 a copy of what appears to be a label. It just
14 says, quote, "Contains Asbestos Dust," closed quote.

15 Q. Let me show this to you, Mr. Hooker, and ask if you
16 recognize it.

17 A. I do not know what that relates to.

18 Q. If I suggest to you that this was part of the
19 documents produced by Flintkote, does that help in any way
20 in identifying whether that was a label ever used by
21 Flintkote for anything?

22 A. I don't recall of seeing it before.

23 Q. Moving right along, let me mark as Plaintiffs'
24 No. 5 another label that begins with the word "Caution."
25 It is not dated, and the exhibit has at the top in
26 handwriting the words, "Asbestos Caution Label," and
27 it's circled, is the best way I can identify it.

28 Let me show that to you, sir.

/ / / / / / /

1 (WHEREUPON, A PHOTOCOPY OF A
2 ONE-PAGE DOCUMENT ENTITLED
3 "CAUTION," AND WITH THE WORDS,
4 "ASBESTOS CAUTION LABEL" IN
5 HANDWRITING AND CIRCLED AT THE
6 TOP OF THE PAGE, WAS MARKED AS
7 PLAINTIFFS' EXHIBIT NO. 5 FOR
8 IDENTIFICATION.)

9 MR. SILBERFELD: Q. Have you seen that document
10 before?

11 A. I can't relate it to a product. I have never seen
12 this specific document. This is the first that I recall.

13 Q. Do you see the handwriting at the top that is not
14 mine?

15 A. Yes.

16 Q. Do you recognize the handwriting?

17 A. No, sir.

18 Q. It's not your handwriting?

19 A. No, sir.

20 Q. From the language of this label, are you able to
21 identify it in terms of when it would have been used at
22 Flintkote, if at all?

23 A. I don't know what product it would have been then
24 used for. It could have been used -- It could have been
25 used for a joint compound. It might have even been used
26 for an asbestos cement product of some sort. Those are the
27 only two products I would think it would specifically
28 pertain to.

Q. Let me mark as Plaintiffs' No. 6 another label
which has at the top the word "Asbestos" and a square on
end in the form of a diamond with numbers and circles on it.

1 (WHEREUPON, A PHOTOCOPY OF A
2 ONE-PAGE DOCUMENT ENTITLED
3 "ASBESTOS" WAS MARKED AS
4 PLAINTIFFS' EXHIBIT NO. 6
5 FOR IDENTIFICATION.)

6 MR. SILBERFELD: Q. I'll show that to you and
7 ask you if you recognize it.

8 A. I am quite certain that comes from the Consumer
9 Protective Products Association in which they establish
10 certain codes which give the degree of hazard, and this
11 was disseminated in our company as it might have been
12 appropriate. I believe that's the Consumer Protective
13 Products Association label.

14 Q. Do you know whether the label, as shown in Exhibit
15 No. 6, was ever used on any Flintkote product?

16 A. I don't recall of it ever being used, as far as I'm
17 concerned. Without the instructions of where to use that
18 particular label, I couldn't even hazard a guess.

19 Q. Do you have an understanding of what the numbers --

20 A. No.

21 Q. -- mean?

22 A. I've read it at one time and forgotten it. I don't
23 know what it means.

24 Q. Let me mark as Plaintiffs' No. 7 a label that looks
25 like it's about three inches by five inches and begins with
26 the word "Caution."

27 (WHEREUPON, A PHOTOCOPY OF A
28 ONE-PAGE DOCUMENT ENTITLED
"CAUTION" WAS MARKED AS
PLAINTIFFS' EXHIBIT NO. 7
FOR IDENTIFICATION.)

MR. SILBERFELD: Q. I'll ask you if you

1 recognize that.

2 A. I don't know where it was used or if it was used,
3 in fact.

4 Q. In that part of the warning label development, did
5 you play a role there?

6 A. No.

7 Q. Do you recall whether you considered this language
8 as part of the label that Flintkote would ultimately use
9 or not?

10 A. To the best of my knowledge, wording of that type
11 was considered in the technical committees for AIA, as
12 well as internally in our organization. It's the typical
13 wording for potentially hazardous products.

14 Q. Do you know whether the warning label that was
15 ultimately adopted by Flintkote was identical in every
16 respect to the warning label which the technical committee
17 of AIA developed?

18 A. Oh, I don't know whether it was, in fact, or not.

19 Q. In terms of the work you did with regard to the
20 warning label language on Flintkote's behalf, did you have
21 any input in the sizes of the label?

22 A. Yes, in conjunction with their being printed on
23 labels which I purchased for our products.

24 Q. Do you recall whether the AIA technical committee
25 recommended a certain minimum size for the warning label?

26 A. I don't recall that AIA ever did that.

27 Q. Do you recall the actual size of the label that
28 was used by Flintkote?

1 A. No, I don't remember the exact size.

2 Q. Did it vary from product to product?

3 A. Yes, sir.

4 Q. Did the size of the label bear some significance
5 to the size of the container involved?

6 A. If I recall correctly, the size of the warning label
7 related to the total size of the label, and it had to stand
8 out on its own. Depending on how big is the label, it had
9 to have -- it was -- as I recall, it had to stand out.

10 Q. What specifically was done to attempt to have the
11 label stand out? Do you recall that, sir?

12 A. Only in general as I had been involved in warning
13 labels, we either gave them a certain size, we boxed them
14 into one degree or another. We made the heading, the
15 word "Caution" in large letters, so that it would catch the
16 applicator's eye.

17 Q. Anything else, sir?

18 A. That's basically....

19 Q. Let me mark as Plaintiffs' No. 8 another label which
20 looks like it's about three inches by six inches and begins
21 with the words, "Asbestos Fibers Present," and then it has
22 some handwriting to the right of the printed matter.

23 (WHEREUPON, A PHOTOCOPY OF A
24 ONE-PAGE DOCUMENT WHICH BEGINS
25 WITH THE WORDS, "ASBESTOS FIBERS
26 PRESENT," WITH HANDWRITING TO
THE RIGHT OF THE PRINTED MATTER,
WAS MARKED AS PLAINTIFFS' EXHIBIT
NO. 8 FOR IDENTIFICATION.)

27 MR. SILBERFELD: Q. Can you identify that, sir?

28 A. I can't identify where it came from.

1 Q. As far as you know, has that label, as shown in
2 Exhibit NO. 8, ever been used on any Flintkote product?

3 A. Not to my knowledge. I've never seen it as a product
4 label.

5 Q. Do you recognize the handwriting to the right of
6 the printed material?

7 A. No, sir.

8 Q. Let me mark as Plaintiffs' No. 9 what appears to be
9 a memorandum dated November 17, 1971, to a Mr. Adams at
10 East Rutherford from a Mr. Fogarty of White Plains. Let
11 me show you this.

12 (WHEREUPON, A PHOTOCOPY OF A
13 ONE-PAGE MEMORANDUM DATED
14 NOVEMBER 17, 1971, TO MR. J. R.
15 ADAMS FROM JOSEPH E. FOGARTY,
16 WAS MARKED AS PLAINTIFFS' EXHIBIT
17 NO. 9 FOR IDENTIFICATION.)

18 MR. SILBERFELD: Q. I'll let you take a look
19 at it for a minute.

20 A. (Witness examining document.)

21 Yes, sir.

22 Q. Have you seen that before today?

23 A. No, sir.

24 Q. Can you identify who Mr. Adams was?

25 A. Product manager.

26 Q. At the East Rutherford plant?

27 A. Corporate -- I beg your pardon. Mr. Adams was in
28 East Rutherford, yes, sir. He was the product manager in
East Rutherford.

Q. For what product?

EVAM 60193385
FLD 00003209

- 1 A. Roofing products.
- 2 Q. Asbestos containing as well as non-asbestos-
3 containing?
- 4 A. Yes, sir.
- 5 Q. And who is Mr. Fogarty?
- 6 A. Legal counsel in the corporate office.
- 7 Q. Did you know Mr. Adams?
- 8 A. Yes, sir.
- 9 Q. Do you recall ever discussing with Mr. Adams the
10 content of any warning labels?
- 11 A. No, sir.
- 12 Q. What was the "Reliance" brand product? Do you
13 recall that, sir?
- 14 A. No, I don't.
- 15 Q. Was it a roofing product?
- 16 A. I'm not certain whether it's a Flintkote brand.
17 I can't answer that. I don't where the word "Reliance"
18 comes from.
- 19 Q. Do you recall whether the Trowel Plastic Cement
20 and Ply Adhesive were Flintkote products?
- 21 A. As generic products, we made them.
- 22 Q. Do you know whether they were asbestos-containing?
- 23 A. Yes, sir.
- 24 Q. Yes, they were?
- 25 A. Yes, sir.
- 26 Q. Both products?
- 27 A. To the best of my knowledge, both of them had
28 asbestos.

FvAM 60193335
FLD 00003210

1 Q. Was the Asphalt Roof Coating product asbestos
2 containing?

3 A. Some of them had asbestos; some did not.

4 Q. The memo has a bcc to Mr. G. G. Curry. Do you know
5 who that was?

6 A. Mr. Fogarty's boss, vice president and chief counsel
7 for The Flintkote Company.

8 Q. In those instances where you had some input into
9 language of warning labels, did you interface with legal
10 counsel on that subject, sir?

11 A. Yes, sir.

12 Q. Who specifically did you deal with?

13 A. Depending on the period in time and who was in the
14 secretary's office as his -- on his legal staff. I would
15 interface with Mr. Fogarty. I might interface with
16 Mr. Curry. I might even interface with other people on
17 the legal staff. It was our policy to send our labels
18 through -- any new designable labels to our legal staff
19 for approval.

20 Q. Do you recall whether any of the suggestions you
21 made with respect to language on any warning labels were
22 either accepted or rejected by legal counsel?

23 A. Specifically, no.

24 Q. I'll have marked as Plaintiffs' No. 10, Mr. Hooker,
25 a copy of a document on The Flintkote Company interoffice
26 correspondence. It's directed to Mr. Opila --

27 A. Opila.

28 Q. -- Opila from A. R. Hooker, Jr., dated April 21, 1972.

1 A memo and an attachment to it, which is a copy of one page
2 of the Employment Safety and Health Guide.

3 (WHEREUPON, A PHOTOCOPY OF A
4 ONE-PAGE MEMORANDUM ON THE
5 LETTERHEAD OF THE FLINTKOTE
6 COMPANY, DATED APRIL 21, 1972,
7 TO MR. E. A. OPILA, FROM A. R.
8 HOOKER, JR., AND A PHOTOCOPY
9 OF ONE PAGE FROM THE EMPLOYMENT
10 SAFETY AND HEALTH GUIDE ENTITLED
11 "NEW DEVELOPMENTS," WERE MARKED
12 AS PLAINTIFFS' EXHIBIT NO. 10
13 FOR IDENTIFICATION.)

14 MR. SILBERFELD: Q. Let me show you that and
15 ask you to review it for a moment.

16 A. (Witness examining document.)

17 Yes, sir.

18 Q. You've had a chance to look at it?

19 A. Yes.

20 Q. First of all, to the right of the date there's
21 some handwriting. Do you recognize the handwriting?

22 A. No, sir.

23 Q. At the bottom of the page there's a signature. I
24 think it says "Art." Is that your hand?

25 A. I'm Art.

26 Q. Who is Mr. Opila, the person to whom it was addressed?

27 A. Manufacturing manager for floor tile.

28 Q. Corporate or a particular plant?

A. No. In division.

Q. Which division?

A. The Flooring Division.

Q. And was Mr. Opila responsible for all flooring
manufacturing operations?

1 A. For most of the time, no. I believe that late in
2 his assignment he was responsible for all locations. I
3 hestiate, because the Los Angeles plant was on its own for
4 awhile. And whether he ever had the Los Angeles floor
5 covering plant under his jurisdiction, I do not know for
6 sure.

7 Q. Where did Mr. Opila hang his hat?

8 A. Chicago Heights.

9 Q. The memo begins with reference to his letter of
10 April 17th, which unfortunately we don't have. Do you
11 recall the substance of it?

12 A. No.

13 Q. It seems to say something about shipments from
14 Carey, as well as markings on bags of asbestos and related
15 problems of complying with OSHA. Do you know whether,
16 prior to receiving the letter and replying to it in this
17 memo form, you and Mr. Opila had ever discussed markings
18 on bags of asbestos and related problems of OSHA?

19 A. Not specifically; not specifically.

20 Q. The second paragraph discusses finding an approved
21 method of loading and bracing railroad cars shipped by Carey.
22 Does that refresh your memory in any way that there was a
23 problem in that respect?

24 A. Yes.

25 Q. And what is that, sir?

26 A. Dust. Breakage of bags and dust.

27 Q. And who reported that to you?

28 A. I don't know specifically, other than Mr. Opila.

1 Q. The memo goes on to say that Mr. Opila apparently
2 asked in his letter, "Will asbestos suppliers mark container
3 with crossbones indicating hazard item for OSHA?".

4 Did you ever discuss that with Mr. Opila?

5 A. Only as is detailed in that letter.

6 Q. And in reply to his question about crossbones, you
7 enclosed the copy which is the second page of this Exhibit
8 No. 10?

9 A. I can only answer with respect that that is what
10 was documented.

11 Q. Then you go on to detail a particular form of
12 warning label and indicate that, "Most Quebec asbestos
13 producers are putting label on all bags," and that, "The
14 above label is actually used by Flintkote." This label
15 was used by Flintkote at least as of the time of this
16 writing in April of 1972 for raw asbestos coming out of
17 Flintkote mining operations?

18 A. Yes, sir.

19 Q. And then the last sentence reads, "I would suggest
20 that we limit any labeling of this type to what is
21 actually required by OSHA or other Government authorities."

22 What was your thinking behind that statement, if
23 you recall?

24 A. Only that we were talking about raw asbestos fiber.

25 Q. As distinguished from what, sir?

26 A. Finished product.

27 Q. Are we to understand that the emphasis in the label
28 was to a danger concerning raw asbestos fiber?

1 Q. And who is J. Szal, S-z-a-l?

2 A. He was an assistant to the president of Flintkote.

3 Q. What was his function? Do you recall?

4 A. Administrative assistant, as assigned by the
5 president of the company. That's as far as I can go.

6 Q. Next, let me show you what I've marked as Plaintiffs'
7 Exhibit 11, which is a Flintkote Company interoffice
8 correspondence to Mr. Poirier from Mr. Hooker, dated
9 November 6, 1969, and ask you to look at that.

10 (WHEREUPON, A PHOTOCOPY OF A
11 ONE-PAGE MEMORANDUM ON THE
12 LETTERHEAD OF THE FLINTKOTE
13 COMPANY, DATED NOVEMBER 6, 1969,
14 TO MR. D. POIRIER, FROM A. R.
15 HOOKER, JR., WAS MARKED AS
16 PLAINTIFFS' EXHIBIT NO. 11 FOR
17 IDENTIFICATION.)

18 MR. JEFFRIES: What was the date?

19 MR. SILBERFELD: November 6, 1969.

20 MR. JEFFRIES: Who is it to?

21 MR. SILBERFELD: Poirier, P-o-i-r-i-e-r.

22 THE WITNESS: (Examining document.)

23 Yes, sir.

24 MR. SILBERFELD: Q. In substance, this memo
25 is a direction to the mine manager that a warning label
26 should be put on all bags of asbestos fiber leaving Flintkote
27 operations; is that true?

28 A. Yes, sir.

Q. Does this refresh your memory, sir, as to the date
on which that direction was given to the mine manager by
you?

1 A. Not other than that date.

2 Q. Do you know when it was, prior to November 6, 1969,
3 that development of a caution label began at Flintkote?

4 A. I do not know.

5 Q. Do you have any feeling or impression in your mind as
6 to how long it took to develop the language in the caution
7 about the size, etcetera?

8 A. A matter of weeks.

9 Q. With regard to that last line of the memo, "There
10 will be no announcement of this action," what did you mean
11 by that?

12 A. That the customer trade would not be advised that
13 we were going to put that on.

14 Q. Was there a specific reason for that?

15 A. Just so that he was aware if somebody called him
16 and says, "What does this mean?", that he would know that
17 we had not contacted our customers.

18 Q. Was there a specific reason not to contact customers
19 and advise them of the fact that the warning label was
20 going to be put on?

21 A. No, because other companies were already using it.
22 Or at least a similar label.

23 Q. Was there a decision made within Flintkote, an
24 affirmative decision, not to contact customers about the
25 addition of the warning label?

26 A. Only as expressed there. I was the sales manager
27 that made the statement.

28 Q. With regard to the persons who are copied with

1 this memo, you have previously identified Mr. Moran,
2 Mr. Carpenter, Mr. Curry, Mr. Main. Who is H. E. Beard?

3 A. He was the -- He was a manufacturing manager for
4 the Building Materials Division. And Mr. Poirier, for
5 mining operations, reported to him, for mining operations.

6 Q. Where did Mr. Beard do his work?

7 A. He was in New Jersey.

8 Q. At the East Rutherford plant?

9 A. Yes.

10 Q. What specific product or products did he supervise
11 the manufacture of?

12 A. Gypsum, both at our mine in Newfoundland and at the
13 gypsum plants in the United States.

14 Q. As far as you know, did Mr. Beard work with asbestos-
15 containing materials?

16 A. Asbestos-containing materials?

17 Q. In the manufacturing process.

18 A. No. Our gypsum plants did not use asbestos fiber.

19 Q. Do you have any hunches to why Mr. Beard would have
20 been copied with this information?

21 A. Yes. Because Mr. Poirier, from an operating point
22 of view, reported to Mr. Beard. Mr. Beard had a staff
23 of mining engineers, and the services of those people were
24 used for our mining operation as a subsidiary in Canada.

25 Q. And who was H. P. Heubner, H-e-u-b-n-e-r?

26 A. He was a predecessor of Sy Weiss in safety.

27 Q. Do you know when?

28 A. I know that he was on -- he had that job at least in

1 1962. I do not know when he relinquished it to Mr. Weiss.

2 Q. Do you know where Mr. Heubner is at the present
3 time?

4 A. I do not.

5 Q. When did you last have any contact with him?

6 A. No later than 19 -- It was either '67 or '69.

7 Q. And where was he employed at that time?

8 A. In corporate headquarters.

9 Q. New York City?

10 A. In '67, it was New York City. In '69, it was in
11 White Plains.

12 Q. Thank you.

13 Plaintiffs' 12 is a one-page document which says
14 at the top, "Page 1 of 2." But we don't have Page 2. This
15 lists various cities and names below it, and that's the best
16 way I can identify it.

17 (WHEREUPON, A PHOTOCOPY OF A
18 ONE-PAGE DOCUMENT UNTITLED WITH
19 "PAGE 1 OF 2" IN THE UPPER RIGHT-
20 HAND CORNER, WAS MARKED AS
21 PLAINTIFFS' EXHIBIT 12 FOR
22 IDENTIFICATION.)

21 MR. SILBERFELD: Q. Let me show it to the witness
22 and ask you if you recognize it.

23 A. A routing list.

24 Q. Can you explain that? What do you mean?

25 A. In order that bulletins, general information letters
26 could be routed to people, and we would use something like
27 this as a routing list, and we would mark those people
28 with --

1 Q. From the names at the various locations, can you
2 identify the vintage of this routing list? Is this the
3 '50's, the '60's, the '70's?

4 A. That one there pretty well identifies it (indicating).
5 Sometime in the late '60's, early '70's.

6 Q. With respect to Pioneer and Los Angeles, can you
7 give us the job capacities of the people listed there?

8 A. Do you want me to name them?

9 Q. Please. Just run down the list and give us their
10 job capacities.

11 A. John O'Neill, he was manufacturing manager for the
12 floor plant. I do not know Mr. Berns. A. C. Costa, chief
13 maintenance engineer. E. J. Fletcher, he and O'Neill were --
14 Fletcher was about ready to retire from the company, and
15 O'Neill took his place as manufacturing manager for the
16 floor tile plant. Wilson Harvey, the general manager of
17 the Pioneer Division. J. Holt, I did not know. R. G.
18 Huntington, director of personnel for the Pioneer Division.
19 J. F. Kent, manager of the liquid products or industrial
20 products plant. R. C. Mansfield, I do not know. J. F.
21 Pung, a maintenance engineer. C. R. Rainey, a maintenance
22 engineer. J. A. Sweeney, head of the Tiletex plant
23 laboratory. John Weisheit, manager of the paper mill.
24 D. Wisdom, I do not know.

25 Q. Thank you, sir.

26 As Plaintiffs' 13, I have marked a two-page document
27 which has at the top the words, "Instruction Sheet,
28 Asbestos Handling Re-Instruction Sheet for Receiving

1 Q. From the names at the various locations, can you
2 identify the vintage of this routing list? Is this the
3 '50's, the '60's, the '70's?

4 A. That one there pretty well identifies it (indicating).
5 Sometime in the late '60's, early '70's.

6 Q. With respect to Pioneer and Los Angeles, can you
7 give us the job capacities of the people listed there?

8 A. Do you want me to name them?

9 Q. Please. Just run down the list and give us their
10 job capacities.

11 A. John O'Neill, he was manufacturing manager for the
12 floor plant. I do not know Mr. Berns. A. C. Costa, chief
13 maintenance engineer. E. J. Fletcher, he and O'Neill were --
14 Fletcher was about ready to retire from the company, and
15 O'Neill took his place as manufacturing manager for the
16 floor tile plant. Wilson Harvey, the general manager of
17 the Pioneer Division. J. Holt, I did not know. R. G.
18 Huntington, director of personnel for the Pioneer Division.
19 J. F. Kent, manager of the liquid products or industrial
20 products plant. R. C. Mansfield, I do not know. J. F.
21 Pung, a maintenance engineer. C. R. Rainey, a maintenance
22 engineer. J. A. Sweeney, head of the Tiletex plant
23 laboratory. John Weisheit, manager of the paper mill.
24 D. Wisdom, I do not know.

25 Q. Thank you, sir.

26 As Plaintiffs' 13, I have marked a two-page document
27 which has at the top the words, "Instruction Sheet,
28 Asbestos Handling Re-Instruction Sheet for Receiving

1 Personnel."

2 (WHEREUPON, A PHOTOCOPY OF A
3 TWO-PAGE DOCUMENT ENTITLED
4 "INSTRUCTION SHEET, ASBESTOS
5 HANDLING RE-INSTRUCTION SHEET
6 FOR RECEIVING PERSONNEL" WAS
7 MARKED AS PLAINTIFFS' EXHIBIT
8 NO. 13 FOR IDENTIFICATION.)

6 MR. SILBERFELD: Q. Let me show that to you,
7 sir.

8 A. (Witness examining document.)

9 Yes, sir.

10 Q. Have you seen that document before?

11 A. No, sir.

12 Q. Did you play any part in the development of the
13 information contained on here?

14 A. Not knowingly.

15 Q. From the text of the document, do you know what
16 department or person within Flintkote would have
17 prepared this document?

18 A. The department would have been the personnel
19 department, plant personnel.

20 Q. From the statements contained within Plaintiffs' 13,
21 are you able to give us the vintage of this document?

22 A. Ask the question again.

23 Q. From what's contained in here, the information, the
24 statements, can you tell us when this document would have
25 been promulgated, if at all?

26 A. Let me see here. I don't know when it was
27 promulgated.

28 Q. Plaintiffs' 14, a single sheet of paper entitled,

1 "Asbestos Hazard Instruction Sheet For Employees."

2 (WHEREUPON, A PHOTOCOPY OF A
3 ONE-PAGE DOCUMENT ENTITLED
4 "ASBESTOS HAZARD INSTRUCTION
5 SHEET FOR EMPLOYEES" WAS MARKED
6 AS PLAINTIFFS' EXHIBIT NO. 14
7 FOR IDENTIFICATION.)

8 MR. SILBERFELD: Q. I'll show you that.

9 A. (Witness examining document.)

10 Yes, sir.

11 Q. Have you seen that before, sir?

12 A. No, sir.

13 Q. You can't identify it in any way?

14 A. No, sir.

15 Q. As Plaintiffs' 15, I'll mark another single page
16 entitled, "Instruction Sheet, Asbestos Handling
17 Re-Instruction Sheet For Dry-Mix Room" -- and then whatever
18 was typed is crossed out, and the word "Employees" is
19 written in.

20 (WHEREUPON, A PHOTOCOPY OF A
21 ONE-PAGE DOCUMENT ENTITLED
22 "INSTRUCTION SHEET, ASBESTOS
23 HANDLING RE-INSTRUCTION SHEET
24 FOR DRY-MIX ROOM EMPLOYEES"
25 WAS MARKED AS PLAINTIFFS'
26 EXHIBIT NO. 15 FOR IDENTIFICATION.)

27 MR. SILBERFELD: Q. Let me ask you if you
28 recognize that.

29 A. (Witness examining document.)

30 Yes, sir.

31 Q. Do you recognize that document?

32 A. No.

33 Q. Do you know whether documents such as 13, 14 and

1 15 have been disseminated to Flintkote employees at anytime?

2 A. Not that I have any knowledge of.

3 Q. I have the name of R. C. Berns, B-e-r-n-s, as being
4 the director of safety at some point in time. Do you
5 recall that, sir?

6 MR. SCHROETER: He said he didn't know him.

7 THE WITNESS: I don't recall knowing

8 Mr. Berns.

9 MR. SILBERFELD: Q. I may have missed that.
10 I'm sorry.

11 Do you know, Mr. Hooker, whether there was ever
12 an investigation of the Tiletex plant at Chicago Heights
13 to determine the level of asbestos fibers in the air there?

14 A. I am not aware of any environment EPA-type tests.

15 Q. Are you aware of a study done by the American
16 Mutual Liability Insurance Company?

17 A. No, sir.

18 Q. Do you have an understanding of what threshold
19 limit values are?

20 A. Yes, sir.

21 Q. Do you know what the governmental standard for
22 threshold limit values was in the late '60's?

23 A. As it relates to asbestos fiber?

24 Q. Yes, sir.

25 Q. I don't think there were any.

26 Q. Was there a recommended TLV at that time?

27 MR. SCHROETER: Recommended by whom?

28 MR. SILBERFELD: Recommended by any association

1 or agency.

2 THE WITNESS: Again, with regard specifically
3 to asbestos fiber?

4 MR. SILBERFELD: Q. Yes.

5 A. Not to my knowledge.

6 Q. Let me mark as next in order, as 16, "Report of
7 Investigation" of The Flintkote Company Tiletex plant,
8 Chicago Heights, Illinois, from the American Mutual
9 Liability Insurance Company. It consists of five pages.

10 (WHEREUPON, A PHOTOCOPY OF A
11 FIVE-PAGE DOCUMENT ENTITLED
12 "REPORT OF INVESTIGATION,"
13 THE FLINTKOTE COMPANY -
14 TILETEX PLANT, BY LEON D.
HOROWITZ, CHIEF, INDUSTRIAL
HYGIENE SECTION, WAS MARKED AS
PLAINTIFFS' EXHIBIT NO. 16 FOR
IDENTIFICATION.)

15 MR. SILBERFELD: Q. Would you take a look at
16 that for a moment, sir?

17 A. (Witness examining document.)

18 Yes, sir.

19 Q. Having had a quick chance to look at Exhibit 16, do
20 you recognize it?

21 A. No, I do not.

22 Q. You've never seen it before?

23 A. No, sir.

24 Q. Do you know who within Flintkote in 1968 or 1969
25 would have been involved in the taking of air samples at
26 the Chicago Heights plant?

27 A. Only by title.

28 Q. Who's that?

- 1 A. Our safety director and insurance director.
- 2 Q. Do you know who the safety director was in the
- 3 late '60's? Did you identify that person?
- 4 A. I'm not sure at what time who had the responsibility.
- 5 Q. I don't know that we established where Mr. Opila is
- 6 now.
- 7 A. He is not longer with The Flintkote Company.
- 8 Q. Do you know where he resides?
- 9 A. Best of my knowledge, he's still living in the
- 10 Chicago Heights area.
- 11 Q. Is he working or retired? Do you know?
- 12 A. Retired, as far as I know.
- 13 Q. Do you have his address?
- 14 A. No.
- 15 Q. It's not in your book?
- 16 A. No.
- 17 Q. Do you recall that a Mr. Fred Swanson was the
- 18 assistant plant manager in Chicago Heights in the late '60's?
- 19 A. Fred Swanson.
- 20 Q. Fred Swanson.
- 21 A. I do not recall of ever knowing him.
- 22 Q. Next is a four-page document, the first of which is
- 23 a copy of -- looks like a piece of writing paper that has
- 24 handwriting on it and bears the numbers "N10-3B.06." It
- 25 says, "1980 safety tour."

26 (WHEREUPON, A PHOTOCOPY OF A
27 FOUR-PAGE DOCUMENT, THE FIRST
28 PAGE BEARING THE NUMBERS "N10-3B.06,"
WAS MARKED AS PLAINTIFFS' EXHIBIT
NO. 17 FOR IDENTIFICATION.)

PATRICIA CALLAHAN & ASSOCIATES
CERTIFIED SHORTHAND REPORTERS

FWAM 60193335
FLD 00003225

1 MR. SILBERFELD: Q. What I'd like to do is
2 just show you this. There are some copies of photographs
3 behind it, Mr. Hooker. And as you're looking at it, the
4 question is: Do you recognize what facility that's about?

5 A. (Witness examining document.)

6 I cannot identify it specifically by the text. The
7 things in there are common to more than one plant.

8 Q. From the photographs of the buildings or whatever
9 are depicted in the photographs, can you identify which
10 plant it is?

11 A. That's what I am saying. These are common to more
12 than one plant.

13 Q. Plaintiffs' 18 is an eight-page document, the cover
14 of which is entitled, "Asbestos, how to work with it and
15 protect your health."

16 Please take a look at that and tell me if you
17 recognize it.

18 (WHEREUPON, A PHOTOCOPY OF AN
19 EIGHT-PAGE DOCUMENT ENTITLED
20 "ASBESTOS, HOW TO WORK WITH IT
21 AND PROTECT YOUR HEALTH" WAS
22 MARKED AS PLAINTIFFS' EXHIBIT
23 NO. 18 FOR IDENTIFICATION.)

22 THE WITNESS: (Examining document.)

23 Yes, sir.

24 MR. SILBERFELD: Q. Have you seen that copy
25 of brochure or pamphlet before?

26 A. I do not recall seeing it before.

27 Q. Do you know whether this document was ever provided
28 to any employees of Flintkote at anytime?

1 A. I do not.

2 Q. Do you know whether it was ever furnished by
3 Flintkote to any of its customers or purchasers of its
4 finished product?

5 A. I do not.

6 MR. SCHROETER: Did you say finished product?

7 MR. SILBERFELD: Finished product.

8 THE WITNESS: It's not applicable.

9 MR. SILBERFELD: Off the record.

10 (Whereupon, there was a discussion off the record,
11 followed by a recess taken at 5:25 o'clock p.m., and the
12 deposition resumed at 5:45 o'clock p.m.)

13

14 FURTHER EXAMINATION BY MR. GRELL

15 MR. GRELL: Q. Mr. Hooker, earlier
16 Mr. Miller asked you some questions about your educational
17 background. I'd just like to follow up a little bit on
18 that.

19 A. Yes, sir.

20 Q. Did you graduate from college?

21 A. University of Southern California.

22 Q. What was your degree in?

23 A. In business administration, industrial engineering.
24 Bachelor of science in business administration, industrial
25 engineering.

26 Q. You also said earlier that you didn't take courses
27 that would qualify you in any areas of industrial hygiene;
28 is that true?

1 A. I did not take any courses in industrial hygiene.

2 Q. In the forty or so years that you've worked with
3 Flintkote, have you attended any seminars that would have
4 given you in-house training in that area?

5 A. No, sir.

6 Q. Have you attended any other courses where you would
7 have obtained training, conducted studies, that kind of
8 thing?

9 A. No, sir.

10 Q. Earlier you also said that if the asbestos tile
11 manufactured and sold by Flintkote was cut, scraped, chipped,
12 that it would not release any fibers.

13 A. Best of my knowledge, it will not.

14 Q. What is the basis of that knowledge, sir?

15 A. From using the tile primarily myself.

16 Q. How often did you use the tile?

17 A. About -- I used it myself in three different
18 installations.

19 Q. Did you ever have to rip it out?

20 A. Yes, in some instances.

21 Q. What methods did you use to rip it out?

22 A. Sputtered it off the floor.

23 Q. How did you sputter it?

24 A. Used a flat blade and got underneath the tile like
25 a spatula and removed the tile from the floor.

26 Q. When you say that there was no fibers released,
27 that means that there was no observable fibers?

28 A. None that I could observe.

1 Q. But you don't know if any fibers were, in fact,
2 released?

3 A. No tests were made.

4 Q. You also talked earlier about a routing system where
5 information was passed on. For example, if you went to
6 an AIA meeting, you would pass that information along to
7 other people in the chain of corporate structure.

8 A. Right.

9 Q. Likewise, if somebody else went to an AIA meeting
10 or QAMA meeting, were you included in the chain of informa-
11 tion being passed along?

12 A. Yes, if we had --

13 You used a term, something besides AIA in that one.

14 Q. The Asbestos Information Association is what I
15 referred to.

16 A. Yes. If other people attended a meeting and they
17 were in segments of the meeting I was not in, I would have
18 received information that they picked up.

19 Q. Do you know who Mr. Heubner is?

20 A. Heubner.

21 Q. Heubner, excuse me.

22 A. Harry Heubner was an employee of The Flintkote
23 Company.

24 Q. Do you know what his position was?

25 A. Harry preceded Sy Weiss, I believe, in connection
26 with insurance. Whether he had safety under him, I don't
27 know. Seems to me -- I'm not positive of this, but Harry
28 Heubner was an employee of The Flintkote Company at the

1 corporate level. I'm not certain of what his title was.

2 Q. Did you ever have an occasion to talk with Mr. Heubner?

3 A. I knew him. And as a result, we were in the same
4 building at one time.

5 Q. If you went to an AIA meeting, would you include
6 him on the list of people to receive information?

7 A. I believe I did.

8 Q. And likewise, do you know that if he received
9 things of information from other sources, that he would
10 copy you with that?

11 A. Not necessarily.

12 Q. Have you ever received articles from Mr. Heubner
13 concerning asbestos-related problems?

14 A. I don't recall.

15 Q. In your opinion, Mr. Hooker, if someone was cutting
16 or scraping or chipping or breaking asbestos tile and
17 they didn't wear a respirator, in your opinion, would that
18 be considered to be unreasonable conduct on the part of
19 the user of the product?

20 MR. SCHROETER: Don't answer that. He's not
21 going to be called upon to give opinions at trial on that.
22 Therefore, I'm objecting to opinion questions like this on
23 the basis of the relevance.

24 MR. GRELL: He's already testified that
25 he's used the product and he didn't see any fibers, so I
26 feel that it's a common enough area that his opinion would
27 be valid in this particular instance.

28 MR. SCHROETER: Well, that's a matter of

1 argument, Counsel. But I'm instruct him not to answer the
2 question.

3 MR. GRELL: Q. Are you refusing to answer
4 the question, Mr. Hooker?

5 MR. SCHROETER: He is following my instruction
6 and doesn't have to --

7 THE WITNESS: I follow my counsel's
8 instruction.

9 MR. SCHROETER: He has no choice.

10 MR. GRELL: Q. Are you familiar with
11 the Pioneer Flintkote office located at 141 Battery Street
12 in San Francisco?

13 A. That office existed at one time. I don't think it
14 exists today.

15 Q. Do you know when that office first came into
16 existence?

17 A. No, I do not.

18 Q. Do you have a rough approximation as to the decade?

19 A. I believe that it was in existence in 1946 when I
20 came to work for The Flintkote Company.

21 Q. Do you know when it went out of --

22 A. I do not.

23 Q. The general decade?

24 A. I just don't know when it was closed.

25 Q. Have you ever been to that office?

26 A. Yes.

27 Q. Do you know who was in charge of that office?

28 A. Whoever the sales manager was at the time. And I

1 forget their names. It was a sales office.

2 Q. Would you have any --

3 A. A district sales office.

4 Q. Would you have any records that were returned to
5 The Flintkote Company concerning that particular Pioneer
6 Flintkote distributor outlet?

7 A. That? That was a sales office. It was not a
8 distributor.

9 Q. Could you define what a sales office would do?

10 A. District sales manager and the local sales persons
11 calling on the trade selling our products here in the Bay
12 Area used that office for their headquarters. There were
13 no products stored in that office.

14 Q. So if someone got an order for the purchase, they
15 would process it through that office. And then where
16 would that order go to?

17 A. I don't know specifically. It would have ultimately
18 wound up at the plant producing the product that they took
19 the order for.

20 Q. Let's assume it was floor tile.

21 A. It would have gone to Los Angeles. The order would
22 have gone to Los Angeles for shipment from the Los Angeles
23 plant.

24 Q. How would it have been shipped from Los Angeles
25 to the Bay Area?

26 A. As a general rule, by truck.

27 Q. Did you have any particular trucking outfits that
28 were used by Flintkote?

1 A. The only one I can remember, Lujak.

2 Q. Lujak?

3 A. L-u-j-a-k, I think is the spelling, or j-a-c. One
4 or the other.

5 Q. Do you know if there's any records at Flintkote's
6 main office that would contain information concerning the
7 sales people that worked out of that office on Battery Street
8 in San Francisco?

9 A. I know of no -- I can't answer that. I don't know
10 what records, personnel records exist.

11 Q. Again, would the information be contained in the
12 personnel department or in some other department, if
13 one was to try to look for it?

14 A. If I was looking for it, I'd look for it in the
15 personnel department.

16 Q. If I asked you this question earlier, I don't
17 remember it. But who is in charge of the personnel office
18 at Flintkote?

19 A. At the present time, the head of personnel is
20 Mr. Clifford Carr.

21 Q. Where does Mr. Carr live?

22 A. Well, Irving -- He works in Irving, Texas. I don't
23 know where he lives. Someplace in the Dallas area.

24 Q. In the beginning of the deposition, you said that
25 you are presently employed by Genstar, correct?

26 A. I am employed by The Flintkote Company, a wholly
27 owned subsidiary of Genstar, and I work for the Genstar
28 Building Materials Divison.

1 Q. So you still consider yourself an employee of
2 Flintkote?

3 A. Flintkote is an entity wholly owned by Genstar.

4 Q. Did you ever read or have occasion to read "Asbestos
5 Magazine"?

6 A. Yes.

7 Q. When did you first start reading that publication?

8 A. At least by 1969. No later than 1969.

9 Q. Did you find that the information in that, that
10 was published in "Asbestos Magazine," that pertained to,
11 say, Flintkote was generally accurate?

12 A. Yes.

13 Q. If the information wasn't accurate, would you take
14 it upon yourself to contact the people at "Asbestos
15 Magazine" to ask for a clarification of anything that had
16 been published in it?

17 A. If I found there were inaccuracies, I would have
18 gone through our advertising department and asked them to
19 see that it was corrected.

20 Q. Referring to Plaintiffs' No. 11, the last sentence
21 of that document says, "There will be no announcement of
22 this action," of the warnings that were going to be placed
23 on the bags of asbestos sold by Flintkote. What was the
24 purpose of putting a warning on the bag?

25 A. To warn the user of the material, that there was a
26 potential hazard that he should protect himself against.

27 Q. In your opinion, would an announcement of that fact,
28 along with the placing of the warnings on the bags of

1 asbestos, be more effective in communicating that information
2 to the customer?

3 A. No.

4 Q. And why is that?

5 A. Because the people I was dealing with were not
6 plant workers.

7 Q. Who were the people that you were dealing with?

8 A. The purchasing agents for the various companies I
9 was selling to.

10 Q. And why wouldn't that announcement have been helpful
11 to them to realize potential hazards involved in handling
12 the sale of asbestos fiber?

13 A. As I said, the product was going to plant workers,
14 not to them. The industry was already starting to label
15 bags. I just didn't feel that there was any need to make
16 an announcement.

17 Q. So you're saying that the people that you were
18 selling the asbestos fibers to already knew about the
19 hazards associated with the asbestos and that there was
20 no need to bring it to their attention by making an
21 announcement?

22 MR. TRAPANI: I'm going to object to that
23 as, for one thing, it's leading. Second, it calls for
24 speculation. It's vague and ambiguous.

25 MR. GRELL: Q. You can still answer the
26 question.

27 A. Repeat the question.

28 MR. GRELL: Could you read the question

1 back?

2 (Whereupon, the record was read by the reporter.)

3 MR. SCHROETER: He just wants to know whether
4 that's what you were selling.

5 THE WITNESS: First of all, I don't know
6 whether the people I was selling asbestos fiber to at
7 this time knew or didn't know about asbestos hazards.

8 The other point I'm bringing up is that what I'm
9 saying here is that I'm advising our mine manager who is
10 doing the shipping that I was not going to tell -- go out
11 and broadcast to my customers that we were going to start
12 labeling our bags. We were just going to put the label on
13 the bag. There was no consideration given as to whether
14 it would have been helpful or not helpful or whether they
15 knew or didn't know.

16 MR. GRELL: Q. And it goes back to my
17 earlier question. In your opinion, would you think that
18 an announcement would have been more effective in
19 communicating the warnings to the people buying your
20 asbestos fiber?

21 A. It may have been, yes.

22 Q. During today's deposition, we've also referred to
23 the exhibits that were attached to interrogatories in the
24 St. Jacques case. And I'd just like to ask you -- it's
25 Plaintiffs' Exhibit 2 --

26 MR. ROSEN: For the record, this is
27 also Exhibit B -- excuse me, Exhibit A to the Flintkote
28 answers to interrogatories in the St. Jacques matter.

1 MR. GRELL: Q. I'd like you to take a
2 moment and just look through that.

3 A. I am very familiar with it.

4 Q. Do you know who prepared this document or these
5 pages of documents?

6 A. The initial work on the document was done in The
7 Flintkote Company East Rutherford plant. The finalization
8 of it, as far as I know, was done by Thompson, Hine and
9 Flory.

10 Q. Who?

11 A. Thompson, Hine and Flory, our legal counsel in
12 Cleveland.

13 Q. Did you have an involvement in inputting this
14 information into this?

15 A. Yes, sir.

16 Q. In your opinion, is the information contained in
17 this document accurate?

18 A. Every effort has been made to make it accurate.

19 Q. So going down the column, "Product Name," in the
20 first column of Exhibit 2, those are an accurate listing
21 of the various asbestos industrial products manufactured
22 by Flintkote?

23 A. As accurate as our records reflect.

24 Q. Same thing with the second column, "Synonymous
25 Name"?

26 A. Yes, sir.

27 Q. That's accurate, as well?

28 A. The total document is as accurate as our records

1 indicate.

2 Q. And the same would hold true for the next column,
3 "Period of Manufacture"?

4 A. Every column of the sheet.

5 Q. "Percentage of Asbestos"?

6 A. Yes.

7 Q. And the description of the product?

8 A. Yes, sir.

9 Q. Is the description of the product just a summary,
10 or are there other uses where there's a use of the product
11 that may be omitted from that column?

12 A. Would you be specific about the product, and I'll
13 try to answer your question.

14 Q. The one I was thinking of was the tennis court, and
15 I can't seem to find it.

16 MR. JUDY: Tennis court and resurfacing;
17 is that what you're looking for?

18 MR. GRELL: Yes.

19 MR. SCHROETER: The last sheet.

20 THE WITNESS: I think it's called Treadkote.

21 MR. GRELL: Q. Treadkote?

22 MR. ROSEN: There it is (indicating), on
23 the next to the last page.

24 THE WITNESS: Next to the last page of the
25 horizontal documents.

26 MR. GRELL: Q. That product, "Tennis
27 Court Resurfacer," would that just be used for tennis courts,
28 for example, or would there be other uses for the product?

1 A. It was specifically designed for tennis courts.

2 Q. On the last page of Exhibit 2, dropping down to
3 the middle, it says, "Products Manufactured By Others But
4 Sold By Flintkote."

5 A. Yes, sir.

6 Q. Which companies manufactured "Joint Treatment
7 Compound" that was sold by Flintkote, to your knowledge?

8 A. I can name at least three or four.

9 Q. Could you name them?

10 A. National Gypsum, Ruco, Texas Textured Paint Company,
11 I believe U.S. Gypsum Company. Those are the ones I
12 remember.

13 Q. What about for the "Spray Texture Paint"?

14 A. The only one I know for sure is Texas Textured
15 Paint Company.

16 Q. Same for "Ceiling Tile." Who manufactured the
17 "Ceiling Tile" that you sold?

18 A. They're in Wisconsin. Conwed, C-o-n-w-e-d.

19 Q. And what about the "Asbestos Cement Shingles"?

20 A. I don't remember what companies produced them for us.

21 Q. Are you aware of any records that would show --

22 A. I don't know whether records would exist.

23 Q. Have you ever seen the records, any records that
24 would indicate who was the manufacturer of the asbestos
25 shingles?

26 A. If I did, I don't recall them.

27 Q. What about with the "Super Stakool White"?

28 A. I have forgotten the name of the company. It's a

1 California company. I do not remember their name.

2 Q. What kind of product is that?

3 A. It's a cement-type dry mix roof coating.

4 Q. Is there any reason why it was just sold on the
5 West Coast only, as indicated on the exhibit?

6 A. I can't answer why it wasn't sold in other locations.

7 Q. I asked you earlier about your knowledge of sales
8 to the United States Government, and you said that you had
9 some knowledge of sales to Air Force bases. And you said
10 that you didn't recall any sales to shipyards.

11 Now I'm trying to find out, do you have any
12 recollection as you sit here today about specific sales
13 to shipyards on the West Coast?

14 A. Not specifically.

15 Q. Do you have any recollection at all?

16 A. I know we bid on -- As assistant manager for the
17 department in the late '40's, we bid on jobs. I do not
18 specifically remember of having our products -- asbestos
19 products delivered to them.

20 Q. Do you have any recollection of Flintkote floor
21 tile being delivered to any shipyards on the West Coast?

22 A. Only in reference to responses to interrogatories,
23 and I can't -- I can just recall that there were some
24 responses that indicated we did.

25 Q. Do you have any recollection as to what shipyards
26 you recall selling your asbestos floor tile to?

27 A. I did not sell floor tile.

28 Q. I'm talking now about Flintkote, no you personally.

1 Q. Do you know of anybody who would have knowledge
2 regarding sales to shipyards?

3 A. Of floor tile?

4 Q. Yes.

5 A. Walter Glovack.

6 Q. Is Mr. Glovack still with Flintkote?

7 A. He's on sick leave in the Los Angeles area.

8 Q. Are you aware of any sales of Flintkote asbestos
9 floor tile to shipyards on the East Coast?

10 A. Not specifically.

11 Q. Do you have any recollection at all?

12 A. All I can say is I know we have shipyard cases.
13 But I don't know what -- I can't remember what the products
14 were.

15 Q. Are you aware of any documents that might help
16 refresh your recollection about whether or not there were
17 these sales to the East Coast shipyards?

18 A. No. They may exist. I don't know.

19 Q. If Flintkote sold, for example, asbestos floor tile
20 to the government, would they bid on a large scale? Would
21 they sell through the various distributors across the
22 country? What was the general procedure when there were
23 sales to the government?

24 MR. SCHROETER: That's a compound question.
25 Objected to on that ground. Are you asking him now about
26 bidding, or are you asking him about selling? And those
27 are two different things. A businessman would tell you
28 that.

1 MR. GRELL: Q. If and when Flintkote
2 had sales to the United States Government, would the sales
3 usually be the result of a bidding process where the
4 government sent out a bid and you made an offer, the offer
5 was either accepted or rejected, but if it was accepted,
6 you would then sell the products?

7 A. As a general rule, yes.

8 Q. Are you aware of sales of, again, for example,
9 asbestos floor tile, that were made to the government that
10 didn't necessarily involve the bidding process?

11 A. No.

12 Q. Are you familiar with the operations of the
13 distributors that sold Flintkote products?

14 A. Not specifically. It was not in my -- not part of
15 my sales responsibility.

16 Q. So would it be a fair statement to say that you do
17 not know one way or the other whether or not the distributor
18 would sell to the government shipyards?

19 A. I do not know whether the distributor sold to the
20 government shipyards.

21 Q. Since the preparation of Plaintiffs' Exhibit 2,
22 which is dated 7/27/83, or at least the first seven pages,
23 and then there's the one page where it's dated 8/3/83,
24 has there been any change in the products that you found
25 that Flintkote manufactured or sold?

26 A. Any --

27 Q. Have there been any additional products that you
28 have uncovered that were not included on these exhibits?

1 A. To the best of my knowledge and our knowledge, all
2 asbestos products are listed here.

3 Q. You also said earlier that you purchased asbestos
4 from Atlas Asbestos in Calaveras County.

5 A. Coalinga.

6 Q. Coalinga. Excuse me.

7 Do you recall approximately what years that you
8 purchased asbestos from Atlas?

9 A. 1960's.

10 Q. Do you have any idea as to the amount of asbestos
11 fiber that you had purchased from that business?

12 A. It would be strictly speculation. I do not remember
13 the quantity.

14 Q. Do you know who owned Atlas Asbestos Company?

15 A. Partly owned by Huxley Development company.

16 Q. Do you know who else partly owned it?

17 A. I do not remember.

18 Q. Would the asbestos fiber that you purchased from
19 the Atlas mine be used in the Vernon plant in Southern
20 California?

21 A. Yes, sir.

22 Q. Are you aware of any of that asbestos being
23 transported to the other Fibreboard plants where asbestos
24 was being used?

25 MR. SCHROETER: Don't say "Fibreboard."

26 MR. GRELL: Q. Excuse me. Flintkote.

27 A. No.

28 Q. It's getting late.

1 So all the asbestos that was sold to Flintkote from
2 the Atlas Asbestos Company was used in the Vernon,
3 California plant?

4 A. To the best of my knowledge.

5 Q. Do you know who would ship the asbestos from Atlas
6 down to Southern California?

7 A. The trucking company?

8 Q. Yes.

9 A. No, I do not remember.

10 Q. Do you know if the asbestos taken from Atlas was
11 transported in any other way other than by truck?

12 A. Best of my knowledge, it was all trucked.

13 Q. When you were working as a sales manager for
14 Flintkote Mines and as account manager for Flintkote,
15 when you'd get paid, was it one check or --

16 A. Yes, sir.

17 Q. -- or was it two checks?

18 A. One check.

19 Q. And that was from Flintkote?

20 A. Yes, sir.

21 Q. In addition to the "Asbestos Magazine," were there
22 any other industry publications that you would read on a
23 regular basis?

24 A. No, sir.

25 Q. I understand that you're planning on retiring soon,
26 Mr. Hooker; is that true?

27 A. Yes, sir.

28 Q. Do you know who your predecessor is going to be?

1 MR. JUDY: Successor.
2 I'm sorry, I threw you off.
3 MR. GRELL: Q. Do you know who your
4 successor is going to be?
5 A. Yes, sir.
6 Q. Who is that?
7 A. Mr. Charles Caterino. I am speaking of my successor
8 for the purchasing responsibilities that I now have.
9 Q. Do you know who is going to be your successor for
10 the interrogatory answering and requests for admissions?
11 A. No, sir.
12 MR. SCHROETER: We may decide not to ever
13 answer any more.
14 THE WITNESS: No, sir.
15 MR. ROSEN: Poor fellow hasn't been
16 fingered yet.
17 MR. GRELL: Q. Has Flintkote asked you
18 to stay on to do any consulting work on behalf of them
19 in relationship to the asbestos litigation that is pending?
20 A. No arrangements have been made.
21 Q. We presently have scheduled a number of cases set
22 to go to trial on April 30th, Mr. Hooker, and you've been
23 asked to appear as a witness at those trials. Are you
24 going to be retiring prior to that time, April 30th?
25 A. No.
26 Q. Have you been asked about appearing at these trials?
27 A. I am not available on April 30.
28 Q. What about May 5th?

1 A. I could be available. I am moving my household
2 goods starting on the 27th of April to South Carolina,
3 and I will not be back in my office in Dallas until about
4 the 5th -- 4th or 5th of May.

5 Q. So you are going to be moving from your present
6 home to South Carolina?

7 A. Right.

8 Q. Where in South Carolina are you going to be moving
9 to, Mr. Hooker?

10 A. Hilton Head, South Carolina.

11 Q. Do you have a specific address in Hilton Head?

12 A. Are you asking for my residence now or where I am
13 going to be?

14 Q. I want to know where you are going to be.

15 A. I am going to be in the company apartment when I
16 return in May and be there until I retire, in Irving,
17 Texas. So my address and phone number will be 580 Decker
18 Drive in Irving, which is my office address.

7 19 MR. SCHROETER: In short, he can be reached
20 through his counsel, through his company's counsel.

21 MR. GRELL: Q. So you're going to be
22 in Hilton Head, and then --

23 A. My wife and my possessions will be in South
24 Carolina, and I will be in -- still working for Flintkote
25 Company for several months after I move, after I make this
26 move.

27 Q. I'm trying to find out where you're planning to
28 permanently reside.

1 A. After I retire?

2 Q. After you retire.

3 A. In Hilton Head, South Carolina.

4 Q. And that's at 580 --

5 A. No. 580 Decker Drive is where I will be until I
6 retire.

7 Q. Again, it's getting late.

8 Where in Hilton Head? I want to know your
9 permanent future residence.

10 A. Will be, until my home that I am building is
11 completed -- and I don't know when it will be completed --
12 in the interim time, it will be 271 Stoney Creek, Sea Pines
13 Plantation, Hilton Head Island, South Carolina.

14 MR. ROSEN: Hope you play golf.

15 THE WITNESS: Let's go.

16 MR. GRELL: Q. Take me with you, please.
17 That kind of takes care of the few follow-up
18 questions that I have.

19 MR. SCHROETER: So see you all tomorrow
20 morning.

21 MR. ROSEN: Can I ask two questions?
22 Honest.

23 MR. SCHROETER: Literally?
24 David wants to ask two questions.

25
26 FURTHER EXAMINATION BY MR. ROSEN

27 MR. ROSEN: Q. Question number one, we've
28 been referring to the interrogatory answers that The

1 Flintkote Company gave to questions which my office
2 propounded in St. Jacque and Beauregard, and on several
3 occasions during the deposition today, the answers have
4 been referred to as unverified.

5 Let me just show the witness the answers to which
6 I am referring, and then I will also show the witness and
7 his counsel a letter dated September 21, 1983, on the
8 stationery of the La Follette, Johnson, Schroeter & De Haas
9 office, signed by Christopher Cannon of that office, and
10 then the enclosure to that letter, which is a verification
11 form from the State of Texas, County of Dallas.

12 Sir, do you recognize the signature on the verifica-
13 tion form?

14 A. That is my signature.

15 Q. Can you state, as purported in the September 21
16 letter of Mr. Cannon, that this verification is with
17 reference to the St. Jacque interrogatories that you see
18 before you?

19 A. Specifically, I cannot.

20 MR. PRICE: That's number two.

21 MR. ROSEN: I'm only on part "C."

22 MR. SCHROETER: He didn't mean two questions.

23 He meant two parts.

24 MR. ROSEN: Let me ask counsel if counsel
25 will stipulate to that fact.

26 MR. SCHROETER: Not at this late hour. I
27 will look at it. Circumstantially, there's some persuasive
28 evidence that they belong together. The witness can confirm

1 it.

2 THE WITNESS: When I get back to my office,
3 I can confirm it.

4 MR. SCHROETER: In fact, he'll confirm it
5 with the office, and we'll settle it outside of the
6 courtroom.

7 MR. ROSEN: Great.

8 Q. Interrogatory No. 17 in this set reads as follows:

9 "Have you" -- and you, meaning Flintkote -- "received
10 notice that any other person was claiming injury as a result
11 of using asbestos products manufactured and/or sold by your
12 company (both prior to and subsequent to the filing of
13 this action)."

14 Answer No. 17 is yes.

15 "If so, please state" -- and then it breaks down
16 into seven subparts asking specific facts about those
17 claims, which I won't read into the record now.

18 The answer to No. 18, which asks for specific
19 information about other claims, is an objection, that
20 to provide an answer to this particular interrogatory
21 would be unduly burdensome.

22 My question now, sir, is how you were able to
23 answer No. 17 affirmatively. In other words, how did you
24 know that there were, in fact, other claims against
25 Flintkote of any type relating to injury as a result of
26 using asbestos products for which your company is responsi-
27 ble?

28 A. My counsel advised me that that, in fact, existed.

1 Q. Other than your counsel advising you that that fact
2 was true, did you check any files of your own or of
3 Flintkote's to answer that question?

4 A. I checked no files of my own.

5 Q. Do any such files exist which could help you answer
6 that question?

7 MR. JUDY: Which question?

8 MR. ROSEN: As to whether there are other
9 claims.

10 Q. Do any files exist on the premises of The Flintkote
11 Company?

12 A. I have copies -- I can only answer that in that I
13 have copies of every interrogatory I signed.

14 Q. I think you misunderstood my question.

15 I want to know if, as you sit here today, you are
16 aware of any files which exist in The Flintkote Company
17 which would provide a basis for answering the question
18 of whether there are other claims pending against The
19 Flintkote Company for injuries claimed as a result of
20 exposure to Flintkote's asbestos-containing products.

21 MR. SCHROETER: Mr. Hooker, he represents --
22 Just a moment, please.

23 Mr. Rosen represents a bunch of plaintiffs in the
24 Los Angeles area, and he is asking this question in this
25 interrogatory, "Are there other people suing Flintkote
26 other than my clients?".

27 MR. ROSEN: Not just suing. Filing any
28 kind of claims.

1 MR. SCHROETER: Filing any claims whatever.
2 Suing is included. So your answer is yes.

3 MR. ROSEN: Q. And you've told me that
4 the basis for your affirmative answer was your legal
5 counsel telling you that.

6 A. That is correct.

7 Q. I have now asked if there are any files in The
8 Flintkote Company which would also provide an affirmative
9 basis for the answer to that question.

10 MR. SCHROETER: In other words, he wants to
11 know if The Flintkote Company has files concerning the
12 filing of these claims.

13 THE WITNESS: I have some files in my office
14 concerning interrogatories and requests for admissions
15 that I have been responsible for signing and certifying.

16 MR. ROSEN: Q. Any files other than
17 these files relating to discovery?

18 A. I am unaware of where those files are, if I
19 understand the question correctly. I don't understand
20 what you're driving at. That's my problem.

21 Q. The question is whether there are files in The
22 Flintkote Company, not limited just to your office, which
23 would give you information to conclude that there were
24 claims filed against The Flintkote Company for injury
25 resulting from exposure to Flintkote's asbestos products.

26 A. I know of no specific files.

27 MR. ROSEN: Thank you.

28 MR. TRAPANI: I just have one very quick

1 question, if I might, sir.

2 What kind of asbestos fiber was The Flintkote
3 Company selling to Raybestos-Manhattan after 1969?

4 THE WITNESS: Chrysotile.

5 MR. TRAPANI: Thank you.

6 MR. JUDY: It's my understanding that
7 we worked late this evening and that we will reconvene
8 tomorrow morning at 8:30 and that we will finish by 11:30.

9 Is that correct?

10 MR. JEFFRIES: I think it's a function, in
11 part, if we have anything, on how long Roman takes with
12 the documents. I don't know if I have anything now. But
13 who knows.

14 MR. SCHROETER: Unilaterally, The Flintkote
15 Company, on behalf of Mr. Hooker, and as a party in response
16 to everything that's been said here this late afternoon and
17 evening, is concluding that there has been a representation
18 made by all of the parties that at 11:30 Mr. Hooker can go,
19 because he has to catch a plane, and that everybody will do
20 everything possible to finish. In fact, some people have
21 spoken of the fact that there is a guarantee that everyone
22 will be finished.

23 And with that in mind, you all go home now and
24 think about it and come back at 8:30.

25
26 (Whereupon, the deposition was adjourned on Thursday,
27 April 12, 1984, at 6:30 o'clock p.m.)

28 / / / / / / / /

1 (Whereupon, the deposition resumed on Friday,
2 April 13, 1984, at 8:50 o'clock a.m. The following
3 attorneys were present:

4 CHRISTOPHER E. GRELL, ESQ.

5 ROMAN M. SILBERFELD, ESQ.

6 RUDOLF H. SCHROETER, ESQ.

7 THEODORE A. CHUN, ESQ.

8 DESTIE OVERPECK, ESQ.

9 THOMAS R. PORT, ESQ.

10 BARBARA J. ARISON, ESQ.

11 J. LAWRENCE JUDY, ESQ.

12 EDWARD M. PRICE, ESQ.

13 D. WAYNE JEFFRIES, ESQ.

14 THOMAS JANISCH, ESQ.

15 J. BRADLEY O'CONNELL, ESQ.

16 RONALD MILLER, ESQ.

17 DANIEL K. OHL, ESQ.

18 JOHN J. MURRAY, ESQ.

19 RAOUL A. RENAUD, ESQ.

20 RICHARD B. HECHLER, ESQ.)

21
22 MR. SCHROETER: It is now 8:50 a.m. We are
23 starting the continuation of Mr. Hooker's deposition, which
24 had been agreed upon to start at 8:30. For some reason,
25 one of plaintiffs' counsel -- in fact, two of plaintiffs'
26 counsel are --

27 MR. GRELL: Just one.

28 MR. SCHROETER: -- are not here.

1 One plaintiffs' counsel, mainly, Mr. Grell, is
2 here, and with his concurrence and on our own will to do so,
3 we will start the proceeding right now, pending the arrival
4 of other counsel, because we have a time problem, as we all
5 remember from discussion yesterday.

6 So I invite codefense counsel to take their orderly
7 turns in questioning Mr. Hooker.

8
9 EXAMINATION BY MR. JEFFRIES

10 MR. JEFFRIES: Q. Mr. Hooker, my name is
11 Wayne Jeffries, and I wanted to ask you a few questions
12 about the purchases of asbestos fiber by Flintkote. And
13 for that purpose, I'd like to review a little bit about
14 what we discussed yesterday.

15 MR. SCHROETER: Kindly tell us who your
16 client is.

17 MR. JEFFRIES: I represent Lake Asbestos
18 of Quebec, Limited.

19 Q. Is it correct, sir, that Flintkote Company purchased
20 its asbestos requirements from Flintkote Mines, Limited?

21 A. Yes, sir.

22 Q. Was that true throughout the existence of the two
23 companies?

24 A. To the best of my knowledge.

25 Q. What records reflect purchases of asbestos fiber?

26 A. Mine records.

27 Q. I'm sorry, sir?

28 A. Flintkote Mines, Limited records.

1 Q. Are those records still in existence?

2 A. Partially.

3 Q. What do you mean when you say partially?

4 A. I believe the oldest records we have start in 1959
5 or '60.

6 Q. And are they current through the closing of the
7 Flintkote Mines, Limited operation in 1981?

8 A. Yes, sir.

9 Q. Where are those records maintained?

10 A. I have copies of them in my office. I am not
11 certain where the original records are.

12 Q. Do you know who the custodian of the records would
13 be?

14 A. To the best of my knowledge, legal counsel, be it
15 in-house or outside house, would have them.

16 Q. What in-house legal counsel would be responsible
17 for the custody of those records?

18 A. I'm not positive. Our corporate office, as
19 Flintkote corporate office, closed a few months ago, and
20 the in-house legal responsibility is now in the Genstar
21 corporate offices in San Francisco

22 Q. Do you know if documents from Flintkote's head-
23 quarters were transferred to Genstar in San Francisco?

24 A. I don't know what has been done with the corporate
25 documents.

26 Q. Have you been instructed to maintain those documents
27 that you have in your office?

28 A. Yes, sir.

1 Q. When you retire, have you been given instructions
2 what to do with them upon retiring?

3 A. No.

4 Q. Have any of the documents that reflect purchases
5 of asbestos fiber been destroyed, to your knowledge?

6 A. Not to my knowledge.

7 Q. Can you describe for me --

8 A. May I respond to that question further, please?

9 Q. Yes.

10 A. The Flintkote Company has a file retention policy
11 which has been in existence for a number of years. And I
12 cannot tell you what the policy was for Mine records,
13 because it is a lengthy document. Whatever documents
14 existed from Mine records, they may have been destroyed
15 in accordance with that policy. But I can't tell you
16 what policy that is.

17 Q. You don't know how the policy operated then?

18 A. The only other thing I can tell you is there was
19 a flood in 1958 -- '57 or '58 at the mine, and a substantial
20 portion of the mine records were destroyed at that time.

21 Q. But to your knowledge, you have copies of the records
22 reflecting purchases of asbestos fibers from 1959 through
23 1981 in your office?

24 A. Yes, sir.

25 Q. Who had access to the records reflecting purchases
26 of asbestos fiber besides yourself?

27 A. Our in-house legal counsel and our outside legal
28 counsel.

1 Q. Would you describe for me the types of records
2 that reflect purchases of asbestos fiber?

3 A. The ones that I have are basically worksheets.
4 Some of them in longhand; some of them have been typed;
5 some are combination of typewritten information and
6 longhand information. And it shows volumes only.

7 Q. When you say it shows volumes only, is it by year
8 or month, or how are the volumes tabulated?

9 A. By year and grade of asbestos.

10 Q. Do those worksheets also indicate the supplier?

11 A. Yes, sir.

12 Q. Who prepared the worksheets?

13 A. Somebody at the Flintkote Mines. I do not know
14 specifically.

15 Q. Do you know when they were prepared?

16 A. I do not.

17 Q. Do you know the purpose of their preparation?

18 A. I do not.

19 Q. Do you know whether there are in existence any
20 purchase orders that would reflect purchases of asbestos
21 fiber?

22 A. Yes, there are some records.

23 Q. Where are those?

24 A. They would be in my retained files -- The ones I
25 know about are in my retained files in Irving, Texas.

26 There would also be in Irving some retained files
27 from the Chicago Heights floor tile plant.

28 Q. I'm sorry, from the --

1 A. Chicago Heights floor tile plant.

2 Those are the only specific records I know about.

3 Q. Would those purchase orders that we're discussing
4 be purchase orders by Flintkote of asbestos from Flintkote
5 Mines, Limited?

6 A. Yes, sir.

7 Q. Would those purchase orders indicate the source
8 from which Flintkote Mines, Limited obtained fiber?

9 A. They would, in possibly not every case, but in most
10 cases would designate the grade of fiber which would identify
11 the producer of that fiber.

12 Q. Did The Flintkote Company ever request from Flintkote
13 Mines that asbestos be purchased from a certain supplier
14 other than Flintkote Mines?

15 A. Yes, sir.

16 Q. What would the reasons be for such a request?

17 A. Because each grade of asbestos fiber and within
18 each supplier grade by grade, the asbestos fiber varies
19 in its physical characteristics and its performance
20 characteristics.

21 Q. And, therefore, it differs in its ultimate use,
22 doesn't it?

23 A. Yes, sir.

24 Q. Are there, in your retained files, purchase orders
25 from Flintkote Mines, Limited to other suppliers?

26 A. No, sir.

27 Q. Do you --

28 A. My personal retained files, when you say "you."

1 Q. Yes. Okay.

2 Do you know if any such documents exist?

3 A. No, I do not.

4 Q. Are there in existence any sales confirmation
5 documents or similar document from any supplier of
6 asbestos fiber to Flintkote Mines?

7 A. Restate the question.

8 Q. I don't think that came out very well.

9 Do you have any sales confirmation documents from
10 suppliers of asbestos fiber to Flintkote Mines, Limited?

11 A. I do not.

12 Q. Do you know if any such similar document is in
13 existence?

14 A. I don't know.

15 Q. I'd like to ask you, sir, if you would, to look again
16 at what was marked as Exhibit 3 yesterday, which I
17 understand to be an Exhibit B to answers to interrogatories
18 of Flintkote Mines, Limited in the St. Jacque and Beauregard
19 actions in Los Angeles.

20 Who prepared Plaintiffs' Exhibit 3?

21 A. I do not know.

22 Q. This document, sir, consists of two pages. And
23 it ends with the year 1971 in the left-hand column on the
24 second page, correct?

25 A. Yes, sir.

26 Q. Do you know if any such similar document to this
27 exists for the years 1972 through the closing of Flintkote
28 Mines, Limited in 1981?

1 MR. SCHROETER: That assumes a fact not in
2 evidence. That the mines were open until '81.

3 Tell him, Mr. Hooker.

4 MR. JEFFRIES: Q. When did the Flintkote
5 Mines close?

6 A. December '71.

7 Q. During the period 1971 through the present, did
8 Flintkote Company continue to use asbestos in any of its
9 products?

10 A. Yes, sir. Until --

11 Did you say present?

12 Q. Yes.

13 A. No. The answer is no.

14 Q. In what year did Flintkote stop using asbestos in
15 its products?

16 A. I'm mixed up again.

17 1982, to the best of my recollection, we stopped
18 using fiber.

19 Q. During the years 1971 through 1982, did Flintkote
20 Company purchase asbestos fiber from Flintkote Mines,
21 Limited?

22 A. Yes, sir.

23 Q. I take it, however, that from 1971 on, Flintkote
24 Mines, Limited did not operate a mine, correct?

25 A. From 1971 on, Flintkote Mines did not operate a
26 mine.

27 Q. So did Flintkote Mines, Limited purchase all of
28 its asbestos fiber from other suppliers?

- 1 MR. SCHROETER: In what time period?
- 2 MR. JEFFRIES: I'm in 1971 to 1982, after
- 3 Flintkote Mines, Limited is no longer owning and operating
- 4 the mine.
- 5 Q. Were all purchases of asbestos fiber from other
- 6 asbestos suppliers?
- 7 A. Yes, sir.
- 8 Q. Did Flintkote Company, during the period 1971 to
- 9 1982, own any asbestos mine?
- 10 A. Not a mine.
- 11 Q. What did it own?
- 12 A. A deposit.
- 13 Q. Where was the deposit located?
- 14 A. Northham, Quebec, Canada.
- 15 Q. Did Flintkote Mines, Limited obtain from this
- 16 Northham deposit asbestos fiber for use by Flintkote
- 17 Company in its products?
- 18 A. No, sir.
- 19 Q. During the period 1971 through 1982, who had
- 20 responsibility for the purchase of asbestos fiber at
- 21 Flintkote Mines, Limited?
- 22 A. Dalna Poirier.
- 23 Q. Is that the same Poirier we spoke of yesterday?
- 24 A. Yes, sir.
- 25 Q. And where was he located?
- 26 A. Thetford Mines, Canada.
- 27 Q. To whom did he report at Flintkote Company?
- 28 A. I can't -- I never saw an organization chart. I

1 don't know specifically. To the best of my knowledge, he
2 reported to the president of The Flintkote Company.

3 Q. Did the individual at Flintkote Company responsible
4 for the purchasing of building materials contact Flintkote
5 Mines, Limited for Flintkote's asbestos needs?

6 A. The procedure was that each plant in The Flintkote
7 Company requiring asbestos fiber placed their orders with
8 Flintkote Mines, Limited for any Quebec asbestos fiber they
9 required.

10 Q. Would these plants also request the supplier from
11 whom they wanted the fiber purchased?

12 A. Again, by product designation or identifying the
13 source. One or the other.

14 Q. When Flintkote Mines, Limited purchased asbestos
15 fiber from other suppliers, would it then instruct that
16 supplier to ship the fiber to a designated Flintkote
17 Company plant?

18 A. Yes, sir.

19 Q. Are there records in existence which will enable
20 us to determine what asbestos supplier supplied which
21 Flintkote Company plant?

22 A. Yes.

23 Q. What is the nature of those records?

24 A. Those same records I spoke of before, I believe the
25 oldest records start in 1959.

26 Q. And those were the same records we discussed before,
27 where copies are in your office in Irving, Texas, correct?

28 A. Yes, sir.

1 Q. And you don't know for sure where other copies are,
2 correct?

3 A. Only in legal counsel files.

4 Q. Does Flintkote Mines, Limited still exist?

5 A. It is still a company, nonoperating company.

6 Q. Is Dalna Poinier still there?

7 A. As part of the company?

8 Q. Yes.

9 A. No, sir.

10 Q. Where does Flintkote Mines, Limited maintain its
11 records?

12 A. I'm not positive.

13 Q. This document, Plaintiffs' Exhibit 3, states that
14 it's a summary of fiber used by The Flintkote Company.
15 Do you know what was used to compile this summary?

16 A. No, sir, I do not.

17 Q. If you were to prepare a summary such as this, do
18 you believe you could do it?

19 A. It would come from these records I have talked
20 about that I have in my files.

21 Q. So if you were asked to --

22 A. Let me look at this again.

23 (Witness examining document.)

24 Yes. My statement was correct.

25 Q. So you would go to the documents that we've been
26 discussing in order to compile this summary, correct?

27 A. Yes, sir.

28 Q. To your knowledge, is Exhibit 3 accurate?

1 A. No, sir.

2 Q. To what extent is it inaccurate?

3 A. During that period of time, our own mines supplied
4 fiber to our Flintkote operating companies.

5 Q. So that I understand the import of Exhibit 3, sir,
6 is this more correctly termed a summary of fiber used by
7 The Flintkote Company purchased from outside suppliers other
8 than Flintkote Mines, Limited?

9 A. To the extent that it is correct, yes.

10 Q. But, for example, if we look here on the left here
11 on this year --

12 I might note that are no years on the left on the
13 first page.

14 A. Well, they were not photocopied.

15 MR. SCHROETER: We'll talk to Mr. Silberfeld
16 about that.

17 MR. SILBERFELD: Am I in trouble again?

18 MR. JEFFRIES: Q. Let's look, sir, at 1970
19 where it lists there one, two, three, four -- five suppliers
20 of asbestos, correct?

21 A. Yes, sir.

22 Q. Would the supply to Flintkote Company by Flintkote
23 Mines, Limited be in addition to those outside suppliers?

24 A. Yes, sir.

25 Q. So what this document represents, to your knowledge,
26 is a summary of outside suppliers other than Flintkote
27 Mines, Limited?

28 A. Yes, sir.

1 Q. And to your knowledge, this was compiled from the
2 documents maintained in your office or documents similar
3 to that?

4 A. I don't know where it was compiled.

5 Q. Did you review this document at the time you
6 reviewed the answers to interrogatories?

7 A. I must not have.

8 Q. Do you know if any such similar document has been
9 prepared for the period 1971 through 1982?

10 A. I don't know for certain whether it has or not.

11 Q. As to the documents that we've been discussing
12 reflecting purchases of asbestos fiber, have copies of any
13 of those documents been produced in any of the lawsuits
14 that bring us here today?

15 A. Not to my knowledge.

16 Q. Have they been produced, to your knowledge, in any
17 lawsuits to which The Flintkote Company is a party?

18 A. Not to my knowledge.

19 Q. Have you been requested by anyone to compile those
20 documents for production?

21 A. What do you mean by compile?

22 Q. Have you been asked by anyone to compile for
23 production, get together and ready for a response to a
24 request to produce documents, those documents which
25 reflect the purchases of asbestos fiber from The Flintkote
26 Company for any period of time?

27 A. You mean assemble documents, when you say compile?

28 Q. Yes.

1 A. No.

2 Q. During the time from 1971 through 1982 when Flintkote
3 plants submitted their asbestos fiber needs to Flintkote
4 Mines, Limited, was a copy of their document making the
5 request sent anywhere else within Flintkote Company?

6 A. Not to my knowledge.

7 Q. What is the title of the document used by a Flintkote
8 plant to obtain asbestos from Flintkote Mines, Limited
9 during the 1971 to 1982 period?

10 A. Purchase order.

11 Q. Is there any other document other than a purchase
12 order that would have been used by a plant to obtain mine
13 from Flintkote Mines, Limited?

14 MR. JUDY: You mean obtain asbestos.

15 MR. JEFFRIES: I'm sorry. Thank you.

16 THE WITNESS: That's the only thing I know
17 of. There could have been phone calls or other means of
18 doing it. But the official document would have been a
19 purchase order.

20 MR. JEFFRIES: Q. If it was ever done by
21 a phone call, to your knowledge, would that have been
22 followed up by some document to reflect that request?

23 A. Our U.S.A. plants were instructed to do so.

24 Q. Were there occasions when one Flintkote plant would
25 be in need of asbestos and would obtain it from another
26 Flintkote plant?

27 A. Yes, sir.

28 Q. Do you know how often that would occur?

1 A. I could only answer, infrequently.

2 Q. Would there be documents which would reflect those
3 requests and transfers of asbestos between plants?

4 A. Originally, there were documents.

5 Q. When you say originally, did the company at one time
6 stop using documents to reflect those transactions?

7 A. No, sir.

8 Q. Are you saying you don't know if such documents
9 exist?

10 A. I don't know if any such documents exist today.

11 Q. What would be the title of a document used by
12 one plant to request asbestos from another plant at Flintkote
13 Company?

14 A. A purchase order.

15 Q. And that purchase order would be internally
16 generated? For example, the plant would generate it and
17 it would indicate that it was purchasing asbestos from
18 another Flintkote Company plant, correct?

19 A. Yes, sir.

20 MR. JEFFRIES: Thank you very much.

21 MR. SCHROETER: A clarifying question on
22 Plaintiffs' 3, Mr. Hooker.

23 The producers of fiber listed on Plaintiffs' 3,
24 are they companies from whom Flintkote Mines obtained
25 fiber in order to satisfy the needs of The Flintkote
26 Company, or are they fiber suppliers with whom The Flintkote
27 Company dealt directly?

28 THE WITNESS: I can only take the literal

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1 translation of "used" as meaning used by our Flintkote
2 plants. I do not know the source of that information.

3 MR. SCHROETER: My question is whether, as
4 things were done in '61 to '71, if Flintkote Mines was
5 the intermediary between The Flintkote Company and the
6 suppliers mentioned on this exhibit, or whether The
7 Flintkote Company dealt directly with these producers
8 that are shown on Plaintiffs' 3.

9 THE WITNESS: The Flintkote plants in the
10 United States purchased fiber from these companies listed
11 on Exhibit 3 by placing purchase orders on Flintkote
12 Mines, Limited.

13 MR. SCHROETER: And that is true of this
14 entire list of producers on Plaintiffs' Exhibit 3?

15 THE WITNESS: All of the people there are
16 Quebec asbestos mining companies.

17 MR. SCHROETER: Thank you, Art.

18 Since you were late, Mr. Silberfeld, I think
19 another defendant has first option.

20 MR. SILBERFELD: Sure.

21
22 EXAMINATION BY MR. MURRAY

23 MR. MURRAY: Q. Mr. Hooker, my name is
24 John Murray, and I represent United States Gypsum. And
25 because your deposition is being noticed in most of the
26 litigation west of the Mississippi, I have a few questions.

27 First of all, I wasn't here yesterday, so bear
28 with me a little bit. I will try not to repeat.

1 But it's my understanding that Flintkote has a
2 Building Products Division; is that correct?

3 A. Yes. By name, at one point in time, we have had a
4 Building Products Division.

5 Q. Did you have any direct responsibility for the sales
6 of Flintkote's joint compound products?

7 A. No, sir.

8 Q. And I take it Flintkote was not a manufacturer of
9 those products; is that right?

10 A. We never manufactured joint compound, to the best
11 of my knowledge.

12 Q. So that what Flintkote was doing was selling to
13 secondary -- either to direct users or distributors, a
14 product which had been manufactured by someone else, and
15 then Flintkote's name was put on it; is that right?

16 A. Yes, sir.

17 Q. Was the name that was put on it Flintrock?

18 A. I don't remember specifically.

19 Q. Do you remember any of the brand-like names that
20 would be put on the packages of these products?

21 A. I have seen the labels. I don't remember exactly
22 the wording on the label.

23 Q. It's my understanding that you did have some
24 knowledge about Ruco and the products that were purchased
25 from them. That's an Atlanta company; is that right?

26 A. The knowledge I have is one which was given to me
27 by other people in my company.

28 Q. So when you were given information about that subject,

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1 it came from other people?

2 A. To the best of my knowledge and memory, I was stating
3 what I learned from other people.

4 Q. Well, do you have personal knowledge yourself that
5 The Flintkote Company ever purchased materials from the
6 United States Gypsum Company which were joint compounds,
7 which Flintkote then resold as its own?

8 A. Specifically, no. The answer is no.

9 Q. Has someone in the company told you that?

10 A. I believe they have.

11 Q. Who?

12 A. Either from copies of records that I have seen,
13 be them invoices or in reports from our product manager
14 for Gypsum.

15 Q. And who is that?

16 A. Presently, it is Mr. Houser, Jim Houser, H-o-u-s-e-r.

17 Q. Now I did want to show you, these are answers to
18 interrogatories, and I apologize that I don't have the
19 questions. They're one of these sets of interrogatories
20 that were propounded in a large number of cases.

21 Maybe we could just have this marked first.

22 MR. SCHROETER: I have to tell you, Mr. Murray,
23 that you're seeking an exemption here from a rule that we
24 have followed. Namely, an answer that is presented to
25 the witness has to be accompanied by the question, so that
26 not only he but all of us truly know the meaning of the
27 answer.

28 Do you have the date of the response and something

1 that might enable some other counsel here to come up with
2 the questions?

3 MR. MURRAY: Well, I do have the date of
4 the responses. They are dated May the 9th.

5 MR. SCHROETER: Let's go off the record for a
6 moment.

7 (Whereupon, there was a discussion off the record.)

8 (WHEREUPON, A PHOTOCOPY OF A
9 TEN-PAGE DOCUMENT ENTITLED
10 "THE FLINTKOTE COMPANY'S
11 RESPONSES TO PLAINTIFF'S
12 INTERROGATORIES - SET NO. 1,"
13 A PHOTOCOPY OF A ONE-PAGE
14 DOCUMENT ENTITLED "CERTIFICATION,"
15 AND A PHOTOCOPY OF A THREE-PAGE
16 PROOF OF SERVICE BY MAIL, WERE
17 MARKED AS DEFENDANTS' EXHIBIT A
18 FOR IDENTIFICATION.)

19 MR. SCHROETER: Back on the record.

20 THE WITNESS: What am I supposed to do now?

21 MR. MURRAY: Q. Would you look, sir, at
22 two of these answers. These are answers to the interroga-
23 tories. The interrogatories were propounded by the law
24 office of Steven Kazan here in the Bay Area. As I said
25 before, I don't have the questions, but the answers are in
26 paragraph form, and the answers I'd like to direct your
27 attention to are Answers No. 20 and No. 43.

28 MR. SCHROETER: The record will reflect that
no one spoke up in the room offering the questions for our
use, so we haven't got them.

MR. MURRAY: Do you have the questions?

MR. GRELL: I have the questions, but I
don't think they match up with Steve Kazan's.

1 MR. SCHROETER: Go on, Jack.

2 MR. MURRAY: Well, I have reviewed these
3 questions before, but I only have them in my recollection.
4 The general nature of each of these questions has to do
5 with other companies that you've dealt with, and the ques-
6 tions were not specific to any one kind of a product.

7 But the answers are, No. 20 was just other
8 companies, and Question No. 43 had to do with other
9 companies' products that Flintkote had sold after rebranding
10 them. That's the general nature of the thrust of the
11 question.

12 Q. And because I don't have the question, I know that
13 you're not going to be able to give as good an answer as
14 you would be able to if you saw the question. But I'd
15 like you to review your answer, anyway, because you did
16 verify these, and I'll ask you some questions.

17 MR. SCHROETER: So now he's going to look
18 at Answer 20.

19 MR. MURRAY: Yes, Answer No. 20 and No. 43.

20 THE WITNESS: (Examining document.)

21 Yes, sir.

22 MR. MURRAY: Q. Have you looked at No. 43?

23 MR. SCHROETER: No. He's looking at 20.

24 THE WITNESS: I would like to take the
25 questions one at a time, if I may.

26 MR. MURRAY: Q. That's fine with me.
27 Anyway you want to do it. I'm not really interested in
28 the other companies, except in a general way.

1 Do you recall giving the information about W. W.
2 Henry Company, Parr, the other companies listed in Answer
3 No. 20? Do you remember that?

4 A. I have given answers on this general subject many
5 times. Specifically on this response, I don't remember
6 specifically on this one.

7 Q. Do you remember giving the information that Flintkote
8 purchased joint compound products from Ruco of Atlanta
9 which were sold under the Flintkote label?

10 MR. SCHROETER: Counsel, he just told you that
11 he doesn't specifically remember this particular answer.
12 He sees that there is a document that has this answer.
13 He also sees that his name is affixed by way of certifica-
14 tion.

15 MR. MURRAY: Q. My question didn't even
16 have any one of the written answers specifically in mind.

17 Do you just remember giving the information that
18 Flintkote purchased joint compounds from Ruco of Atlanta
19 which were sold under Flintkote's label?

20 A. I have given that information, yes.

21 Q. Do you recall giving the information that Celotex
22 Corporation furnished joint cement, powder and ready-mixed,
23 to Flintkote?

24 A. I recall that.

25 Q. Do you remember that?

26 A. Yes, sir.

27 Q. Do you remember where you got the information about
28 Ruco of Atlanta which you put into this answer to

1 interrogatories?

2 A. To the best of my memory, it came from our product
3 managers or manager.

4 Q. Was that personally Jim Houser, or was that an
5 assistant of his?

6 A. It could have been his assistant.

7 Q. What's that fellow's name?

8 A. Brittan.

9 Q. That's his last name?

10 A. B-r-i-t-t-a-n. I'm trying to remember his first
11 name. He's no longer with the company.

12 Q. Do you remember where you got the information about
13 obtaining the joint cement from Celotex Corporation?

14 A. Any information I would have obtained concerning
15 joint cement would have come from our product manager
16 department.

17 Q. The information that you provided in this answer,
18 No. 20, has specific dates for Ruco of Atlanta. Was that
19 also provided to you by someone in Mr. Houser's division?

20 A. I don't know where those specific dates came from.

21 Q. There are no dates provided with regard to Celotex
22 Corporation. Would that be true in the instance of you
23 giving information here because no dates have been provided
24 to you?

25 A. I didn't say that no dates had been provided to me.

26 Q. Were --

27 A. I said I don't know where these dates came from.

28 Q. Regarding the Celotex Corporation, were you given

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1 any dates for the period of time that the Celotex
2 Corporation furnished the ready-mixed and powder joint
3 cement to Flintkote?

4 A. I don't know specifically about Celotex. I have been
5 given dates of purchase from various people or various
6 companies.

7 Q. I'd like you to review No. 43 now. This is just
8 the answer, again.

9 A. (Witness examining document.)

10 Yes, sir.

11 Q. In this answer, it indicates that from the period
12 1955 to 1976, that Flintkote purchased joint treatment
13 compound from several manufacturers. Is that information
14 which was provided to you by someone else?

15 A. Yes, sir.

16 Q. So, again, we're dealing with a situation where
17 it's not your own personal knowledge. You're providing
18 company information from some other source.

19 A. I would assemble the information.

20 Q. Were two of those manufacturers Ruco of Atlanta
21 and Celotex Corporation, which are mentioned in Answer
22 No. 20?

23 A. To the best of my recollection, yes.

24 Q. And you notice that Question 43 says, "See response
25 to Interrogatory No. 20."

26 A. Yes, sir.

27 Q. Do you have knowledge of the names of any other
28 manufacturers besides Celotex and Ruco?

1 A. Yes, sir.

2 Q. Who?

3 A. Specifically, I know that Texas Textured Paint
4 Company was a supplier. And now I have to -- That's the
5 only specific one that I personally know about.

6 Q. But that wasn't put in this answer, because
7 Flintkote owns Texas Textured Paint; is that right?

8 A. No, sir, that is not the reason.

9 Q. Well then, what was the reason?

10 A. I don't know. I don't know what the question is.

11 MR. SCHROETER: Namely, Question 43.

12 MR. MURRAY: Namely, Question 43. That's
13 right.

14 Q. Did Flintkote obtain joint compounds and spray
15 textures from Texas Textured Paint Company?

16 A. Yes, sir.

17 Q. Did Flintkote obtain products from that company
18 during the period 1955 to 1976?

19 A. I cannot answer when it started, but I do know
20 that they were doing it in 1946.

21 Q. Do you recall when Flintkote purchased Texas
22 Textured Paint Company?

23 A. To the best of my knowledge, they never purchased
24 Texas Textured Paint Company.

25 Q. I could be wrong.

26 MR. SCHROETER: Maybe we own something we
27 don't know about.

28 MR. MURRY: Lucky you.

1 Q. Well, just so that this doesn't run through hundreds
2 of lawsuits and all, I take it, then, that your testimony
3 with regard to United States Gypsum company, that's U.S.G.,
4 was, from what I understand, that you recall transactions
5 with U.S.G., the company, that were not specific to the
6 type of product that I've been talking about here, joint
7 compounds; is that true?

8 A. Yes. There were other transactions with U.S.G.

9 Q. In other words, U.S.G. makes paper and, I mean, just
10 ordinary wood fiber paper and is a miner of raw gypsum,
11 and you recall transactions with U.S.G. with respect to
12 those products. Personally, you recall those things,
13 don't you?

14 A. Yes, sir.

15 Q. And I take it you just simply do not have any
16 knowledge with respect to transactions specifically
17 regarding joint compound type materials. Would that be
18 true?

19 A. That is correct.

20 MR. MURRAY: Thank you, sir.

21 MR. SILBERFELD: Anybody else?

22 MR. SCHROETER: I think it's your turn, Roman.

23 MR. SILBERFELD: I apologize for being late.

24
25 FURTHER EXAMINATION BY MR. SILBERFELD

26 MR. SILBERFELD: Q. Mr. Hooker, I'd like to
27 continue my questioning, and I'll try not to repeat
28 questions that other counsel may have asked.

1 I'd like to go over the product groups that we
2 spoke about yesterday that Flintkote manufactured that
3 contained asbestos, and then I have a question about those.

4 Do you know when Flintkote, for the first time,
5 gave any warning of the possible health effects from the
6 use of its floor tile material that contained asbestos?

7 MR. SCHROETER: And you're speaking now in
8 this question about consumer products or, rather, completed
9 products rather than raw fiber?

10 MR. SILBERFELD: Correct.

11 THE WITNESS: I cannot remember specifically.
12 It was in the '70's. The year, I do not recall.

13 MR. SILBERFELD: Q. With respect to the
14 asbestos cement pipe products manufactured by Flintkote,
15 do you recall whether a warning was ever given of possible
16 health effects associated with that product at anytime?

17 A. To the best of my knowledge, the only warning, if
18 that is characterizing what I'm about to say correctly,
19 it was in a work practice pamphlet. And to the best of
20 my knowledge, it was prepared by the Asbestos Cement Pipe
21 Association and was used as an industry safety piece.

22 Q. Do you recall when that was?

23 A. Only prior to the time we closed the Ravenna asbestos
24 cement pipe plant.

25 Q. And when was that?

26 A. Sometime in the '70's. I can't remember the exact
27 year.

28 Q. When was it that Flintkote began the manufacture of

1 A. There were some warnings given.

2 Q. Do you recall when for the first time?

3 A. Sometime, again, in the '70's.

4 Q. To your knowledge, was any warning of the possible
5 health effects of asbestos exposure from the use of the
6 finished manufactured product given by Flintkote to any
7 consumer of that product in the decade of the 1960's?

8 Maybe you'd like to have that question reread, sir.

9 A. I'm hazy on product. That's all.

10 Q. Well, by product, I mean finished manufactured
11 product as opposed to raw material, re fiber.

12 Q. I'm not certain. I believe the answer is no.

13 Q. In any of the jobs that you've had with Flintkote,
14 have you ever seen Flintkote's floor tile being installed
15 in some application, some building or facility?

16 A. Yes.

17 Q. You've seen that a number of times, I take it?

18 A. No, not a number of times.

19 Q. One or two times?

20 A. One or two times.

21 Q. Do you recall what types of facilities they were
22 where the tile was being installed?

23 A. Commercial.

24 Q. Offices and warehouses, that type of thing?

25 A. Offices.

26 Q. Do you know whether the tile being installed was
27 asbestos-contained floor tile?

28 A. It was.

1 Q. What was the occasion for your witnessing the
2 installation?

3 A. I don't remember.

4 Q. Did you see the product -- by "product," I mean
5 the asbestos-containing floor tile manufactured by
6 Flintkote -- being cut by workers?

7 A. Yes, sir.

8 Q. Did you see the floor tile being broken in any way?

9 A. Not purposely.

10 Q. In the course of witnessing this installation,
11 did you see whether the operation of installing the floor
12 tile produced any dust that was visible?

13 A. Did not.

14 Q. Did you witness whether the installation of the new
15 tile also included removal of old tile?

16 A. Other than my own personal work with floor tiles
17 for my own personal use, I have not seen such a procedure.

18 Q. So you may have removed some in your own kitchen;
19 would that be correct?

20 A. Yes, sir.

21 Q. But you've not seen it done in commercial
22 installations?

23 A. No, sir.

24 Q. Do you have any information for us about the life
25 range of Flintkote asbestos-containing floor tile?

26 In other words, how long it has a usable life for?

27 MR. SCHROETER: Under what circumstances of
28 use?

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1 MR. SILBERFELD: Q. Well, if it varied so.
2 widely because of use, tell us that and we'll try to break
3 it down.

4 MR. SCHROETER: Don't answer that.

5 THE WITNESS: I can't answer it.

6 MR. SCHROETER: Just a moment.

7 Counsel, make a more concise question, please.

8 MR. SILBERFELD: Q. Are you aware of any
9 studies ever done by your company to determine what the
10 life range of its floor tile product is?

11 A. None to my knowledge.

12 Q. Does the usable life of the floor tile depend upon
13 the traffic and use that the floor tile is put to?

14 A. That would be one factor.

15 Q. What other factors would go into the equation?

16 A. Exposure to the elements.

17 Q. So we have traffic, exposure to elements. What else?

18 A. Cleaning procedures.

19 Q. Anything else that you could think of at this time?

20 A. The type of facility that it's installed in.

21 Q. Would that have something to do with traffic as well?

22 A. Traffic would be a factor in that.

23 Q. Are you aware, Mr. Hooker, of any information or
24 data that Flintkote has compiled which would indicate the
25 usable life of its floor tile in commercial buildings?

26 A. I know of no such data.

27 Q. Are you aware of any advertising material or
28 promotional material put out by or on behalf of Flintkote

1 which advertises or promotes any particular usable life
2 for its floor tile? In other words, says something like,
3 "This will last ten years," or twenty years, something like
4 that?

5 A. No, sir.

6 Q. During your years with the company, have you ever
7 seen Flintkote asbestos-containing floor tile being removed
8 anywhere?

9 A. No, sir.

10 MR. SCHROETER: You mean other than what he
11 himself may have done in his own house?

12 MR. SILBERFELD: Right.

13 THE WITNESS: Well, I did some myself. But
14 I never seen anybody else do it.

15 MR. SILBERFELD: Q. You've never seen it done
16 on any large scale, meaning larger than a kitchen or a
17 surface floor; is that correct?

18 A. That is correct.

19 Q. Was it customary for you, as the manager of
20 purchasing for the Building Materials Division, to visit
21 customer installations, customers of Flintkote?

22 A. No, I didn't under that job responsibility.

23 Q. Did you under any job responsibility, other than
24 the early years when you were in sales?

25 A. Did you use the word "customary"?

26 Q. Yes.

27 A. No. It was not customary for me to do that under any
28 job responsibility.

1 Q. During any of your jobs, did you ever visit any
2 shipyard installations?

3 A. No, sir.

4 Q. Never been on board a ship where construction work
5 was going on?

6 A. Yes, I've been aboard ship when construction work
7 was done.

8 Q. Tell us about that.

9 MR. JUDY: Tell you what about it?

10 MR. SILBERFELD: Q. When was it?

11 A. Pardon?

12 Q. When was that?

13 A. From 1943.

14 Q. Prior to the time you joined Flintkote?

15 A. Yes, sir.

16 Q. What were the circumstances of that?

17 A. I was an officer in the Navy.

18 Q. And what was going on at the time this occurred?

19 A. The ship I was to help commission was under
20 construction.

21 Q. Did you have some responsibility with respect to
22 the construction?

23 A. Not with respect to the construction.

24 Q. Did you observe the installation of any materials
25 which you either knew or suspected to contain asbestos
26 at that time?

27 A. I was not concerned in any way.

28 MR. SCHROETER: The answer is no?

1 THE WITNESS: Rephrase the question or
2 restate the question, if you will.

3 (Whereupon, the record was read by the reporter.)

4 THE WITNESS: I don't know.

5 MR. SILBERFELD: Q. During any of your jobs
6 with Flintkote, have you participated in the development
7 of a substitute product for the asbestos-containing floor
8 tile manufactured by Flintkote?

9 A. Yes.

10 Q. When did you first have any part in that?

11 A. Sometime in the late '70's or early '80's.

12 Q. And what was your role?

13 A. Purchasing agent.

14 Q. You were commissioned to go out and try to buy raw
15 materials that could be used in a substitute floor tile?

16 A. Tried to find --

17 MR. SCHROETER: You don't mean a substitute
18 floor tile. You mean --

19 MR. SILBERFELD: Substitute asbestos in the
20 floor tile.

21 THE WITNESS: Yes, sir.

22 MR. SCHROETER: Are you limiting your question
23 to substitute fiber to be used in floor tile?

24 MR. SILBERFELD: Yes, to be used, for now.

25 THE WITNESS: Yes, sir.

26 MR. SILBERFELD: Q. To your knowledge, when
27 did the search for a substitute for the asbestos content
28 in the floor tile first begin at Flintkote?

1 MR. SCHROETER: Objection. That assumes a
2 fact not in evidence, that there was a search as such.

3 MR. SILBERFELD: Well, maybe "search" is the
4 wrong word.

5 Withdraw the question.

6 Q. At some point in time, did the development of an
7 asbestos-free floor tile become a project at Flintkote, to
8 your knowledge?

9 A. Yes.

10 Q. Without regard to when you became involved in the
11 late '70's or early '80's, do you know when that project
12 got its start at Flintkote?

13 A. I do not know specifically.

14 Q. Do you have an impression in your mind as to whether
15 your involvement was at the beginning stages of that
16 project, middle or near the end?

17 A. Near the beginning at some point.

18 Q. Who asked you to find a substitute for the asbestos?

19 A. My superior, and the technical group of Floor Tile.

20 Q. Who was your immediate superior that asked you to
21 do that?

22 A. M. L. Johnson.

23 Q. Was there a particular person in the technical group
24 for the floor tile that was involved in the substitute
25 project?

26 A. Dr. Jack -- Can't remember his last name.

27 Q. First name Jack?

28 A. Jack.

1 Q. And he was with the technical group for the flooring
2 products?

3 A. Flooring Division.

4 Q. Where was his office at that time?

5 A. East Rutherford, New Jersey.

6 Bartlett, his last name.

7 Q. Is he in your phone book?

8 A. Pardon?

9 Q. That's all right.

10 Other than Mr. Johnson and Mr. Barlett, do you know
11 of any other persons who were involved in the search for
12 a substitute for the asbestos content in the floor tile?

13 A. To the best of my knowledge, the only other person
14 is Jim Sweeney.

15 Q. What was Mr. Sweeney's capacity?

16 A. He was head of the manufacturing lab for the Vernon
17 floor tile plant.

18 Q. And what was Dr. Barlett's position with the company?

19 A. I believe his title was technical director for the
20 Flooring Division.

21 Q. Is Dr. Barlett still employed by the company?

22 A. No, sir.

23 Q. Do you know where he is at the present time?

24 A. Best of my knowledge, in England.

25 MR. SCHROETER: See you there.

26 MR. SILBERFELD: Q. Do you know where in
27 England?

28 A. I do not know.

1 Q. Do you know by whom he's employed?

2 A. Last I heard, he was self-employed. Consultant.

3 Q. And is Mr. Sweeney still employed by the company?

4 A. No. He's retired.

5 Q. Do you know where he lives?

6 A. In Southern California.

7 Q. Do you know in what community?

8 A. I'm sorry, I've forgotten. A suburb of Los Angeles
9 is all I can say.

10 Q. In terms of the role that you played, Mr. Hooker,
11 in attempting to find a substitute product for the asbestos
12 content in the floor tile, what did you do?

13 A. Contacted fiberglass companies, producers of fiber-
14 glass and other products that were being advertised as
15 possible substitute for asbestos fiber.

16 Q. Other than fiberglass, what other products were
17 being advertised at that time as a substitute for the
18 asbestos content?

19 A. Carbon fibers, clays, cellulose fiber, talcs. I
20 believe that pretty much covers the general category.

21 Q. I take it when you engaged in this search to try
22 to find a substitute for the asbestos content, you already
23 understood at that time what characteristics the asbestos
24 brought to the floor tile which you were now trying to
25 replace.

26 A. Yes.

27 Q. What were those characteristics?

28 A. Fire retardancy, strength, the ability to give us

1 wet strength in the manufacturing operation -- wet strength,
2 referring to the mixture of the ingredients as the product --
3 as the floor tile was being manufactured, appropriate
4 color, inertness, nonabsorbed. Those are the key ones.

5 Q. I think you gave us two separate strength
6 characteristics.

7 A. Yes, sir.

8 Q. one is the strength of the finished product, I take
9 it.

10 A. Yes sir.

11 Q. And the other is the strength in the manufacturing
12 process.

13 A. Yes, sir.

14 Q. How long did you engage in the search for a
15 substitute for the asbestos in the floor tile? How long did
16 it last?

17 A. I don't recall how many years, but it was a matter
18 of -- I would guess, to the best of my knowledge, it was
19 at least four years.

20 Q. And if you can estimate it, what percentage of your
21 time was spent during that four-year period on this project,
22 as opposed to your other duties?

23 A. I don't remember.

24 Q. Approximately. Were you spending half of your time,
25 a quarter of your time?

26 A. My personal time?

27 Q. Your personal time.

28 A. No more than ten percent.

1 Q. Going right to the end of the story, did you find
2 a suitable substitute for the asbestos for Flintkote's
3 floor tile?

4 A. No, sir.

5 Q. What were the reasons for that?

6 A. We could find nothing to meet the basic criteria
7 that I outlined.

8 Q. Did any of the possible substitutes which you've
9 listed for us meet all of the characteristics of the
10 asbestos which you were trying to replace?

11 A. None of them.

12 Q. Did any of them come close, in terms of the number
13 of characteristics, so that an attempt was made in the
14 manufacturing process to actually produce an asbestos-free
15 floor tile?

16 A. Yes.

17 Q. Which ones?

18 A. Glass.

19 Q. Any others?

20 A. Talc.

21 Q. Any others?

22 A. Those are the only two I can remember.

23 Q. So those went from the research stage into the
24 actual production stage of an asbestos-free floor tile?
25 At least experimentally.

26 A. It went into experimental production.

27 Q. Did any actual production runs of asbestos-free
28 floor tile come out with glass or talc?

1 A. Nothing salable.

2 Q. What were the reasons for the failure of the
3 glass-containing floor tile as a finished product?

4 A. I'm not technically qualified to answer that.

5 Q. Do you know why the talc product failed?

6 A. Again, I can't -- Technically, I can't answer that.

7 Q. Well, I'm not asking you for a chemical formula-type
8 answer, but rather, do you know how come the product didn't
9 perform as well as the asbestos-containing floor tile?

10 A. It didn't provide the characteristics that we needed,
11 either to produce it or in the finished product.

12 Q. And with respect to the glass substitute, do you
13 know which of the characteristics was missing?

14 A. Strength.

15 Q. Strength in the finished product, I take it?

16 A. Both, process and.

17 Q. Any others that the glass product lacked?

18 A. Not that I recall.

19 Q. How about the talc product? What did that lack?

20 A. To the best of my recollection, the same two major
21 points, plus one other. Color was a problem.

22 Q. Uniformity of color?

23 A. No. Just color.

24 Q. At some point in time, did Flintkote discontinue the
25 manufacture of asbestos-containing floor tile completely?

26 A. Yes, sir.

27 Q. When was that, sir?

28 A. I believe the last plant closed in 19 -- either late

1 '81 or sometime in '82. I can't remember the exact date
2 now.

3 Q. Do you know the reasons for the discontinuation of
4 the asbestos-containing floor tile line?

5 A. Nonprofitable.

6 Q. Did the profitability or nonprofitability have to
7 do with the fact that the product contained asbestos?

8 A. Not to my knowledge.

9 Q. There was simply no more call for the product?

10 A. No, sir.

11 Q. What was the reason that it was no longer profitable,
12 to your knowledge?

13 A. We couldn't sell it at a price to make a profit.

14 Q. Oh, the manufacturing costs compared to what you
15 would sell it for in the marketplace was so high it was
16 no longer profitable?

17 A. Correct.

18 Q. Do you have any estimate, Mr. Hooker, of the amount
19 of money that was devoted by Flintkote to the substitute
20 product project, if we can call it that?

21 A. I do not.

22 Q. Of the people you've listed for us, yourself,
23 Dr. Bartlett and Mr. Sweeney and Mr. Johnson, can you tell
24 me who was in charge, if there was a person in charge, of
25 the substitute product project?

26 A. There were two departments involved. One was
27 Mr. Johnson, who was the vice president in charge of the
28 Flooring Division. And the other was corp research, which

1 did some direction in this area. But I don't know who
2 the parties were other than the head of that department
3 that would have been involved.

4 Q. Who was that?

5 A. His name at the time was Mr. Beard, B-e-a-r-d,
6 H. E. Beard, corporate director of research and engineering.
7 He personally did not do any of the work.

8 Q. Turning our attention away from floor tile and
9 towards the other asbestos-containing product groups that
10 Flintkote had, were you involved in the search for a
11 substitute raw material for asbestos in any of the liquid
12 products manufactured by Flintkote?

13 A. Yes, sir.

14 Q. Did your involvement in that project coincide with
15 the search for a substitute for asbestos in the floor tile?

16 A. Partially.

17 Q. Did the liquid substitute product project come
18 first or after?

19 A. Later than the floor tile project. During and
20 later than.

21 Q. Sure.

22 Was an adequate substitute found for the asbestos
23 in the liquid products?

24 A. Only partially.

25 Q. Could you explain your answer?

26 A. It's a very complex subject. You're dealing in
27 terms of not only performance of product, but cost of
28 formulation of product, and there is a report by EPA which

1 is very succinct in this whole matter, in that it discusses
2 this subject of liquid products. It's in 1980, and it points
3 out some of the factors that I've already discussed, that
4 there is no substitute for all of the -- no one single
5 substitute for all of the characteristics of asbestos fiber.

6 So you try to find a combination of products to
7 give you the end result. And in some instances, the cost
8 of those products is such that you then have a product which
9 is not salable in the marketplace.

10 There may be other ways of accomplishing the end
11 results by changing the specifications. The applicators
12 may not accept the product in the field. It doesn't
13 handle the same. There's a multitude of reasons, economic
14 and physical.

15 Q. Was the substitute for asbestos in the liquid
16 products at least sufficiently successful when the liquid
17 products asbestos-free were put out on the market?

18 A. Yes, sir.

19 Q. Are they on the market at this time?

20 A. Yes, sir.

21 Q. Has the experience that the company's had with
22 respect to the asbestos-free liquid products made those
23 products a success?

24 A. Some have been and some have not.

25 Q. For one or more of the many reasons you've cited?

26 A. Yes, sir.

27 Q. Was your role in the substitute products project
28 for liquids the same as with respect to the floor tile,

1 namely, purchasing?

2 A. To a lesser degree.

3 Q. Did you participate in the search for a substitute
4 for asbestos in any other product group that Flintkote had
5 that contained asbestos other than the liquids and the
6 floor tile?

7 A. No.

8 Q. With respect to products manufactured for Flintkote
9 by others and then sold by Flintkote, did you have any
10 role in the development of substitutes for asbestos in
11 the products of those companies?

12 MR. SCHROETER: Objection. Vague. Do you mean
13 produced by others for Flintkote only for Flintkote's use
14 and on its requests, or do you mean produced by others
15 generally and, among other purchasers, bought by Flintkote?
16 In other words, are you talking about products made
17 specially to Flintkote specs and requests, or are you
18 speaking of products generally made by others and then
19 bought by Flintkote, among others?

20 MR. SILBERFELD: Let's start with products
21 made exclusively for Flintkote by others.

22 Q. Did you have any role in seeking substitutes for
23 asbestos content in those products?

24 MR. SCHROETER: Objection. That assumes that
25 there is any product which somebody makes exclusive for
26 Flintkote. Find out whether there's such a thing.

27 MR. SILBERFELD: Come on, Rudolf. That's what
28 you said. I didn't say that.

1 MR. SCHROETER: I didn't say that. I merely
2 suggested that there are various categories of things. Now
3 you've picked on that one. Find out whether there is such
4 a thing.

5 MR. SILBERFELD: Q. Is there such a thing?
6 Namely, products made exclusively by others for Flintkote.

7 A. I'm not positive of whether there is, whether others
8 are producing a specific product exclusively for Flintkote
9 or not.

10 Q. Assuming for the sake of the question that that is
11 a fact -- Can you assume that for a second?

12 MR. SCHROETER: Depending on what you're going
13 to ask him next.

14 THE WITNESS: It's a hypothetical question.

15 MR. SILBERFELD: Q. It's going to be a
16 hypothetical question. Can you assume that that's true
17 for the sake of --

18 A. I think I'm capable of that.

19 Q. I figured you were. Some of us aren't, so --

20 MR. MURRAY: You won't be by the afternoon.

21 MR. JUDY: There is no afternoon today.

22 MR. SILBERFELD: Q. Assuming that's true for
23 a second, Mr. Hooker, did you have any role in contacts
24 with those types of manufacturers who made the products
25 for Flintkote in attempting to find substitutes for asbestos
26 content in their products?

27 MR. SCHROETER: Objection. That's really not
28 intelligible, because you're mixing a hypothetical with a

1 personal activity kind of question, and you can't do that.

2 So don't answer that question as posed.

3 MR. SILBERFELD: Q. Did you have any contact
4 with any manufacturer with regard to any product that
5 Flintkote bought from that manufacturer that contained
6 asbestos in an effort to find a substitute for the asbestos
7 content?

8 A. No, sir.

9 Q. In the course of any positions you've had with
10 Flintkote, did you have any role in attempting to have
11 Flintkote's asbestos-containing products meet military
12 specifications?

13 A. I was not personally involved in trying to develop
14 such products.

15 Q. Do you know who was, if it was one person or a
16 department?

17 A. It would have been the technical people in more than
18 one department.

19 Q. Depending on the product group?

20 A. Yes, sir.

21 Q. You personally had no involvement in that at anytime
22 in your career; is that correct?

23 A. In developing products to meet military specs, no,
24 sir, I was not personally involved.

25 Q. Did you have any role during any of your jobs in
26 attempting to have military specifications changed so that
27 Flintkote's products would then qualify?

28 A. The word "changed," no.

1 Q. Modified?

2 A. No.

3 Q. Well, you seem to be hanging on the word. Is there
4 some role that you had with respect to military specs in
5 Flintkote products?

6 MR. SCHROETER: He's carefully listening to
7 your questions.

8 MR. SILBERFELD: Yes, I know he is.

9 Q. So was there some role you had, sir?

10 A. Yes.

11 Q. Could you tell us what that was?

12 A. We submitted products for approval and ultimate
13 issue of military specifications.

14 Q. In other words, you would submit products to the
15 government for consideration to see whether they complied
16 with mil specs?

17 A. In some instances, we would. In other instances,
18 we would submit products to get a military specification
19 written to cover our products.

20 Q. So in the first instance, it was for submission of
21 products to meet an existing mil spec, correct?

22 A. Yes, sir.

23 Q. And in the second instance, it was for submission of
24 a product to which there wasn't a mil spec yet in the hopes
25 that there would be one written for the product; is that
26 correct?

27 A. Not necessarily that there was no military spec for
28 a product, but we tried to get our products approved with

1 the specification written to cover them.

2 Q. So in the second example, there was no military
3 specification that covered Flintkote's existing product
4 at that time?

5 A. That is correct.

6 Q. And the hope was that a mil spec would be issued
7 that would cover the product?

8 A. I didn't -- Mil spec is not the word. A military
9 specification, be it one from a specific -- for a specific
10 base or a specific type of application.

11 Q. And what was your role in regard to those two types
12 of contacts with the government?

13 A. In marketing and sales.

14 Q. So that would have been early in your career with
15 Flintkote, in the '40's and '50's; is that correct?

16 A. Yes, sir.

17 Q. At that time, in the '40's and '50's, was there a
18 particular job function within Flintkote whose responsibility
19 it was to have contact with the general services
20 administration?

21 A. Not that I was aware of. Each department took care
22 of its own business.

23 Q. Do you know, Mr. Hooker, whether Flintkote's
24 asbestos-containing floor tile met military specifications?

25 MR. SCHROETER: When?

26 MR. SILBERFELD: During the years he was in
27 marketing and sales in the '40's and '50's.

28 THE WITNESS: I don't know.

1 Q. Do you know whether it met military specifications
2 in the '60's?

3 A. Yes.

4 Q. Yes, you know, and yes, it did?

5 A. By virtue of investigative work I have done in
6 connection with asbestos cases, I have found that we were
7 approved as a military -- under military specifications.

8 Q. In your capacity as the manager of purchasing for
9 building materials from 1973, really, to the present, did
10 you have any role in work practice changes in the operating
11 plants that Flintkote had around the United States?

12 A. No, sir.

13 Q. That was totally outside of your area of responsi-
14 bility, I take it?

15 A. I had nothing to do with it.

16 Q. During the years that you were in marketing and
17 sales from the '40's through the '50's, really, did
18 Flintkote have an advertising agency it used?

19 A. Yes. I don't remember the name of it, though.

20 Q. Do you know what city they were located in?

21 A. In general, we had one on the West Coast and one
22 on the East Coast. The West Coast was in Los Angeles.
23 I don't know what city the East Coast agency was in.

24 Q. I'd like to talk about some more documents,
25 Mr. Hooker, with you.

26 (WHEREUPON, A PHOTOCOPY OF A TWO-PAGE
27 DOCUMENT ENTITLED "WARNING LABELS ON
28 PRODUCTS MANUFACTURED OR SOLD BY
FLINTKOTE, WAS MARKED AS PLAINTIFFS'
EXHIBIT NO. 19 FOR IDENTIFICATION.)

1 MR. SILBERFELD: Q. I've marked as Exhibit 19,
2 Mr. Hooker, a document which has been previously identified,
3 not in this deposition, but it's called Exhibit C, and it's
4 Exhibit C to certain answers to interrogatories provided
5 to The Flintkote Company in cases entitled Waller vs.
6 Johns-Manville, Davis vs. Armstrong, Taylor vs. Armstrong,
7 in the United States District Court for the Southern District
8 of Florida. They are verified March 2nd, 1982, by you, and
9 they are the questions and answers.

10 MR. SCHROETER: You did all right.

11 MR. SILBERFELD: Q. All we want to talk about
12 is the exhibit, and I think they've also been identified
13 in other litigation.

14 With respect to what is now Plaintiffs' Exhibit
15 No. 19, do you have that in front of you, sir?

16 A. Yes, sir.

17 Q. Can you just describe-for the record in substance
18 what the document is?

19 A. It identifies warning labels used in these products
20 produced by Flintkote.

21 Q. To your knowledge, are the warnings described in
22 Exhibit 19 all of the warnings issued for those products
23 by Flintkote at anytime?

24 A. No, sir.

25 Q. What other warnings for those product groups were
26 issued by Flintkote that are not contained there?

27 A. These product groups? I'm sorry, I misunderstood
28 the question.

1 Q. I said these product groups.

2 A. I'm sorry, I misunderstood the question.

3 MR. JUDY: Could we have the question in
4 total again?

5 THE WITNESS: To the best of my knowledge,
6 yes.

7 MR. SILBERFELD: Do you want to hear it?

8 MR. JUDY: No.

9 MR. SILBERFELD: It was a good question.

10 MR. JUDY: Was it a good question?

11 MR. SILBERFELD: Yes. It was a pretty good
12 question. It wasn't a great question.

13 Q. The first product group you've indicated there is
14 Skykote. Could you just indicate what product group that is?

15 A. Liquid product.

16 Q. And then the third product is C 13 C4. What product
17 group is that?

18 A. Liquid product.

19 (WHEREUPON, A PHOTOCOPY OF A
20 ONE-PAGE DOCUMENT ENTITLED
21 "NOW YOU CAN INSTALL A BEAUTIFUL
22 NEW FLOOR IN NO TIME AT ALL
23 WITH FLINTKOTE PEEL-STICK
24 REINFORCED VINYL FLOOR TILE"
25 WAS MARKED AS PLAITNIFFS'
26 EXHIBIT NO. 20 FOR IDENTIFICATION.)

27 MR. SILBERFELD: Q. Next, I've marked as
28 Exhibit 20 a document which is, again, part of the answers
to interrogatories in the Florida cases that I described a
second ago, and this was Exhibit D to those answers. But
we've now remarked it as Exhibit 20 here. Would you take a

1 look at that?

2 A. (Witness examining document.)

3 Yes, sir.

4 Q. Do you recognize the document?

5 A. Yes, sir.

6 Q. What is it?

7 A. It's an insert placed inside of the box of floor
8 tile when we shipped it.

9 Q. Do you know when it was that this insert was first
10 used with respect to Flintkote's floor tile?

11 A. Sometime in the '70's. I don't -- I can't recall
12 specifically.

13 Q. The answers to interrogatories indicate that
14 Exhibit D, which is the document that is now Plaintiffs' 20,
15 was issued in 1977. Does that refresh your memory, sir, in
16 any way? Does that refresh your memory as to the date?

17 A. Whatever is in there is what I discovered in answering
18 the interrogatories.

19 Q. To your knowledge, was Exhibit 20, the insert sheet,
20 the first time that an insert sheet of any type had been
21 placed inside Flintkote floor tile boxes by the company?

22 A. No, it was not.

23 Q. Had instruction sheets like Exhibit No. 20 been used
24 by Flintkote for its floor tile products prior to 1977?

25 A. Yes, sir.

26 Q. Had that been true for all the time floor tile was
27 manufactured?

28 A. I don't know.

1 Q. Had that been true for all of the time that Flintkote's
2 floor tile was of the peel-and-stick variety?

3 A. I'm not certain about that, either.

4 Q. I'd like to direct your attention to the warning
5 labels in the second column at the bottom. Did you see
6 that, sir?

7 A. Yes, sir.

8 Q. Do you know how the language of that warning was
9 developed?

10 A. No, sir.

11 Q. Did you have any role in the development of that
12 language?

13 A. No, sir.

14 Q. Do you know whether that warning, as contained in
15 Exhibit No. 20, was the first such warning given by the
16 company with respect to its asbestos-containing floor tile
17 product?

18 A. I'm not certain whether it is or is not the first
19 warning.

20 Q. In reviewing the corporate records for purposes of
21 answering interrogatories, did you find any insert sheets
22 like Exhibit No. 20 that were of an earlier period than
23 Exhibit No. 20 --

24 A. No, sir.

25 Q. You didn't let me finish.

26 -- which contained a warning as contained in Exhibit
27 No. 20?

28 A. No, sir.

1 Q. So this would be the earliest document you found
2 that contained a warning?

3 A. Yes, sir.

4 Q. Other than the insert sheet that we've been talking
5 about, which is Exhibit No. 20, are you aware of any other
6 warning given with respect to asbestos-containing floor
7 tile manufactured by Flintkote that was given after 1977?

8 A. I don't recall of any.

9 (WHEREUPON, A PHOTOCOPY OF A
10 FIVE-PAGE LETTER ADDRESSED TO
11 MR. ALBERT H. FAY, VICE PRESIDENT
12 MARKETING, FROM J. A. MAIN,
13 FLINTKOTE MINES, LIMITED, A
14 PHOTOCOPY OF AN EIGHT-PAGE DOCUMENT
15 ENTITLED "TARGET HEALTH HAZARDS,
16 ASBESTOS: AIRBORNE DANGER," AND
17 A PHOTOCOPY OF A ONE-PAGE DOCUMENT
18 ENTITLED "ASBESTOS AND HEALTH,
19 INFORMATION FILE," WERE MARKED AS
20 PLAINTIFFS' EXHIBIT NO. 21 FOR
21 IDENTIFICATION.)

22 MR. SILBERFELD: Q. As 21, I've marked a copy
23 of a letter dated May 2nd, 1968, and the addressee of
24 Albert H. Fay, F-a-y. It's from J. A. Main, M-a-i-n, and
25 there are certain attachments to it.

26 Let me show you this exhibit and ask you if you
27 recognize it.

28 A. (Witness examining document.)

Yes, sir.

Q. With respect to the last page of the letter, it is
a xeroxed copy of a signature. Do you recognize that as
being Mr. Main's signature?

A. It's not legible.

Q. At this period of time, in May of 1968, was Mr. Main

1 with Flintkote Mines?

2 A. Yes, sir.

3 Q. In what capacity, sir?

4 A. Sales manager.

5 Q. Do you recall ever seeing this letter before?

6 A. I'm not certain whether I have seen that letter or
7 one like it.

8 Q. You mean a different copy of it?

9 A. No, I meant I'm not positive I've seen that specific
10 letter.

11 Q. Did you know who Mr. Fay was, other than by the
12 title given?

13 A. I knew Mr. Fay.

14 Q. Did you ever have any contact with Mr. Fay with
15 regard to environmental health hazard issues?

16 A. No, sir.

17 Q. At the time that you took over your capacity with
18 respect to the Flintkote Mines in the early '70's, did you
19 go through the files that then existed with regard to health
20 issues or safety issues?

21 A. No, sir.

22 Q. Do you recall ever reviewing this letter or any of
23 the attachments to it at or about the period we've been
24 talking about, in 1971?

25 A. No, sir.

26 / / / / / / /

27 / / / / / / /

28 / / / / / / /

(WHEREUPON, A PHOTOCOPY OF A
ONE-PAGE MEMORANDUM ON THE
LETTERHEAD OF THE FLINTKOTE
COMPANY, DATED NOVEMBER 15, 1968,
TO MR. H. P. HEUBNER FROM M. L.
JOHNSON, WAS MARKED AS PLAINTIFFS'
EXHIBIT NO. 22 FOR IDENTIFICATION.)

MR. SILBERFELD: Q. No. 22 is a Flintkote
interoffice correspondence document dated November 15, 1968,
to Mr. Heubner from Mr. Johnson. The subject is "Safety
precautions - Use of Asbestos Fibers." I'll put that in
front of you, sir.

A. (Witness examining document.)

Yes, sir.

Q. Have you seen that document before today, sir?

A. I do not recall seeing it before.

Q. Mr. Heubner's position as of 1968 was what, sir?

A. To the best of my recollection, he was head of our
insurance department.

Q. And the received stamp, which bears a date of
November 18, '68, and says, "Office of the Secretary,"
do you recognize the stamp as being a stamp used by
Flintkote?

A. The only thing I recognize is Mr. Curry was the
secretary of The Flintkote Company at that time.

Q. And his name is underlined in the cc's.

A. Yes, sir.

Q. And he was corporate secretary?

A. Yes, sir.

/ / / / / / /

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1 (WHEREUPON, A PHOTOCOPY OF A
2 ONE-PAGE LETTER DATED FEBRUARY 3,
3 1969, TO AMERICAN MUTUAL LIABILITY
4 INSURANCE COMPANY, FROM WALTER N.
5 KNORR, SAFETY MANAGER; A PHOTOCOPY
6 OF A ONE-PAGE HANDWRITTEN DOCUMENT
7 DATED 1/27/69 TO WALT; A PHOTOCOPY
8 OF A ONE-PAGE HANDWRITTEN LETTER
9 DATED JAN. 27, 1969, TO MR. RALPH
10 McCREARY; A PHOTOCOPY OF A ONE-PAGE
11 LETTER DATED JANUARY 27, 1969,
12 ADDRESSED TO MR. RALPH McCREARY;
13 AND A PHOTOCOPY OF A ONE-PAGE
14 HANDWRITTEN DOCUMENT WITH THE WORDS
15 "SUGGESTED 2ND PARAGRAPH" AT THE
16 TOP OF THE PAGE, WERE MARKED AS
17 PLAINTIFFS' EXHIBIT NO. 23 FOR
18 IDENTIFICATION.)

11 MR. SILBERFELD: Q. No. 23 is a copy of a
12 letter dated February 3rd, 1969, from Walter Knorr,
13 K-n-o-r-r, to the American Mutual Liability Insurance
14 Company, to the attention of Mr. Robedee, R-o-b-e-d-e-e.
15 And attached to it are certain handwritten letters and
16 the letter in draft form. Take a look at that for a moment.

17 A. (Witness examining document.)

18 Yes, sir.

19 Q. With respect to the product described here as
20 "Weatherkote" -- correct?

21 A. Yes, sir.

22 Q. What was Weatherkote? What type of product?

23 A. Best of my knowledge, it was a liquid asphalt or
24 industrial product.

25 Q. For what application?

26 A. I'd have to refer to file information as to just
27 exactly what it was used for.

28 / / / / / / /

1 (WHEREUPON, A PHOTOCOPY OF A
2 ONE-PAGE LETTER DATED FEBRUARY 17,
3 1969, ADDRESSED TO MR. RALPH
4 McCREARY, FROM WALTER N. KNORR,
SAFETY MANAGER, WAS MARKED AS
PLAINTIFFS' EXHIBIT NO. 24 FOR
IDENTIFICATION.)

5 MR. SILBERFELD: Q. No. 24 is a copy of a letter
6 dated February 17, 1969, from Mr. Knorr to Mr. McCreary at
7 C-E Refractories. I'll show you that document.

8 A. (Witness examining document.)

9 Yes, sir.

10 Q. Do you recall ever seeing the letter before?

11 A. No.

12 Q. Does this refresh your memory in any way that there
13 was concern about the health effect with regard to the
14 Weatherkote product in or about 1969?

15 MR. SCHROETER: Concern on whose part? The
16 writer of the letter?

17 MR. SILBERFELD: On anybody's part.

18 THE WITNESS: Only as the letter dictates,
19 so states. That's the only concern that I know about,
20 stated in the letter.

21 (WHEREUPON, A PHOTOCOPY OF A
22 ONE-PAGE MEMO ON THE LETTERHEAD
23 OF THE FLINTKOTE COMPANY, DATED
24 JUNE 29, 1971, TO JOHN PARKER
FROM WALTER N. KNORR, WAS MARKED
AS PLAINTIFFS' EXHIBIT NO. 25 FOR
IDENTIFICATION.)

25 MR. SILBERFELD: Q. 25 is a copy of an
26 interoffice correspondence dated June 29, 1971, from
27 Walter N. Knorr to John Parker. The subject is "Asbestos
28 Dust Survey." Take a look at that for a moment.

1 A. (Witness examining document.)

2 Yes, sir.

3 Q. Have you ever seen that memo before, sir?

4 A. Only in review of documents in counsel's office.

5 Q. Do you know whether the asbestos dust survey done
6 at East Rutherford revealed any excessive dust conditions,
7 based on whatever standards were used in the report?

8 A. I have no knowledge of the survey.

9 (WHEREUPON, A PHOTOCOPY OF A
10 ONE-PAGE MEMO ON THE LETTERHEAD
11 OF THE FLINTKOTE COMPANY, DATED
12 JUNE 7, 1972, TO MR. M. L. JOHNSON,
13 MR. J. C. HARKNESS, MR. H. TAYLOR
14 AND MR. W. HARVEY, FROM WALTER N.
15 KNORR; A PHOTOCOPY OF A ONE-PAGE
16 DOCUMENT ENTITLED "UNION-INDUSTRY
17 COMPROMISE, NEW OSHA STANDARD ON
18 ASBESTOS IS SET"; AND A PHOTOCOPY
19 OF AN EIGHT-PAGE DOCUMENT ENTITLED
20 "12 FIBERS, 5 FIBERS, 2 FIBERS,"
21 WERE MARKED AS PLAINTIFFS' EXHIBIT
22 NO. 26 FOR IDENTIFICATION.)

23 MR. SILBERFELD: Q. 26 is an interoffice
24 correspondence of The Flintkote Company dated June 7th,
25 1972, from Mr. Knorr to Mr. Johnson, Harkness, Taylor
26 and Harvey. The subject is "Asbestos Standard." And it
27 shows Mr. Hooker as cc, and there are attachments to it,
28 as well. Would you take a look at that, sir?

29 A. (Witness examining document.)

30 Yes.

31 Q. In your capacity as manager of purchasing, did you
32 have any role in the manufacturing facilities' attempt to
33 comply with the new OSHA standard on asbestos?

34 A. Yes, sir.

1 Q. What was your role?

2 A. Submitting information that was available for the
3 Asbestos Information Association to appropriate management
4 level people.

5 Q. Did you have any part in attempting to see to it
6 that the actual manufacturing facilities complied with the
7 OSHA standards?

8 A. No, sir.

9 Q. Was your role limited to interfacing between AIA
10 and management level of Flintkote?

11 A. I was -- Yes, correct.

12 (WHEREUPON, A PHOTOCOPY OF A
13 ONE-PAGE MEMO ON THE LETTERHEAD
14 OF THE FLINTKOTE COMPANY, DATED
15 JUNE 14, 1972, TO MR. JOHN SZAL
16 FROM A. R. HOOKER, JR., AND A
17 PHOTOCOPY OF A THREE-PAGE LETTER
18 ON THE LETTERHEAD OF ASBESTOS
19 INFORMATION ASSOCIATION/NORTH
20 AMERICA, DATED JUNE 12, 1972,
21 TO AIA/NA MEMBER COMPANIES AND
22 VARIOUS OTHERS, FROM M. M. SWETONIC,
23 EXECUTIVE SECRETARY, WERE MARKED
24 AS PLAINTIFFS' EXHIBIT NO. 27 FOR
25 IDENTIFICATION.)

26 MR. SILBERFELD: Q. Next is 27, interoffice
27 correspondence from Mr. Hooker to Mr. Szal, S-z-a-l,
28 dated June 14, 1972. It's a memo, and attached to it are
three pages of minutes from the AIA. Take a look at that
for a second, sir.

29 A. (Witness examining document.)

30 Yes, sir.

31 Q. Do you recognize the documents?

32 A. Yes.

1 Q. Have you seen it before today?

2 A. Yes, sir. I signed the governing letter.

3 Q. Do you recall getting from Corporate Engineer
4 information or studies about what was happening in the
5 manufacturing facilities of Flintkote with respect to
6 airborne asbestos fibers?

7 A. No, sir.

8 Q. That didn't happen? You didn't get the information?

9 A. Not to my -- I don't recall of ever receiving any
10 information.

11 Q. Did you participate, either directly as an employee
12 of Flintkote or through AIA, in any effort to have the
13 OSHA regulations on airborne asbestos fibers changed?

14 A. AIA spoke for the overall producer of asbestos
15 products.

16 Q. Yes, sir.

17 A. And as a member of AIA, I participated in supplying
18 information to AIA about our own operations. I participated,
19 in some instances, in developing work practice procedures
20 for certain products. That basically covers it.

21 Q. Do you see the notes in the margin delineations here?

22 A. Uh-huh.

23 Q. Are those all yours, sir?

24 A. Yes.

25 Q. Thank you.

26 Did you ever develop work practices with respect to
27 floor tile manufacturing?

28 A. I was not involved in that.

1 Q. Did you play any part in or about 1972 with having
2 screening examinations done of employees at any manufacturing
3 plant of the company?

4 A. No, sir.

5 Q. Do you know that that was done at any manufacturing
6 facility in or about 1972?

7 A. The Flintkote Company met whatever the requirements
8 were of OSHA.

9 Q. But you don't have personal knowledge of the fact
10 that screening examinations were or weren't done; is that
11 correct?

12 A. Only that the company complied with OSHA.

13 Q. I understand.

14 MR. GRELL: I don't think he's answered
15 the question.

16 (WHEREUPON, A PHOTOCOPY OF A
17 ONE-PAGE MEMO ON THE LETTERHEAD
18 OF THE FLINTKOTE COMPANY, DATED
19 SEPTEMBER 27, 1972, FROM S. WEISS,
20 WAS MARKED AS PLAINTIFFS' EXHIBIT
21 NO. 28 FOR IDENTIFICATION.)

22 MR. SILBERFELD: Q. 28 is an interoffice
23 correspondence of The Flintkote Company, dated September
24 27, 1972. It's from Mr. Weiss, and we don't know who it's
25 to. Take a look at that for a second.

26 A. (Witness examining document.)

27 Yes, sir.

28 Q. It refers, does it not, to certain labels or signs
available from you, correct?

A. No, sir. Available through me.

1 Q. Well, it says, "If you wish to obtain the warning
2 signs, you can request them directly from Mr. A. R. Hooker,
3 Jr."

4 A. I didn't have them in my possession.

5 Q. It's kind of like answering interrogatories.
6 What signs were these?

7 A. Prepared by AIA.

8 Q. Do you have copies of any of those signs, or have
9 they been produced?

10 A. I don't know whether I have copies of them or not in
11 my files.

12 Q. What did they depict or what was the general substance
13 of those documents?

14 A. They were signs designed to place in the manufacturing
15 location for warning the worker of a possible hazard.

16 (WHEREUPON, A PHOTOCOPY OF A
17 ONE-PAGE MEMO ON THE LETTERHEAD
18 OF THE FLINTKOTE COMPANY, DATED
19 JANUARY 30, 1973, TO MR. E. A.
20 OPILA AND VARIOUS OTHERS, FROM
21 M. L. JOHNSON; A PHOTOCOPY OF A
22 TWO-PAGE LETTER ON THE LETTERHEAD
23 OF ASBESTOS INFORMATION ASSOCIATION/
24 NORTH AMERICA, DATED JANUARY 17,
1973, ADDRESSED TO "GENTLEMEN,"
FROM MATTHEW M. SWETONIC, EXECUTIVE
SECRETARY; AND A PHOTOCOPY OF A
SEVEN-PAGE DOCUMENT ENTITLED
"ASBESTOS, THE SAVER OF LIVES, HAS
A DEADLY SIDE," WERE MARKED AS
PLAINTIFFS' EXHIBIT NO. 29 FOR
IDENTIFICATION.)

25 MR. SILBERFELD: Q. 29 is an interoffice
26 correspondence dated January 30, 1973, from Mr. Johnson to
27 a number of people. The subject is "Asbestos." Let me
28 show you that, sir.

1 A. (Witness examining document.)

2 Okay.

3 Q. And let me show you, with Counsel's kind permission,
4 30, as well.

5 MR. SCHROETER: Does it relate?

6 MR. SILBERFELD: Yes. It's another interoffice
7 memo, March 13, '73, from Mr. Johnson to the same people.

8 (WHEREUPON, A PHOTOCOPY OF A
9 MEMO ON THE LETTERHEAD OF THE
10 FLINTKOTE COMPANY, DATED MARCH 13,
11 1973, TO MR. E. A. OPILA AND
12 VARIOUS OTHERS, FROM M. L. JOHNSON;
13 A PHOTOCOPY OF A TWO-PAGE MEMO ON
14 THE LETTERHEAD OF ASBESTOS
15 INFORMATION ASSOCIATION/NORTH
16 AMERICA, DATED FEBRUARY 27, 1973,
17 FROM MATTHEW M. SWETONIC, EXECUTIVE
18 SECRETARY; AND A PHOTOCOPY OF A
19 ONE-PAGE DOCUMENT ENTITLED "THE
20 HAZARDS OF SAFETY," WERE MARKED AS
21 PLAINTIFFS' EXHIBIT NO. 30 FOR
22 IDENTIFICATION.)

23 THE WITNESS: (Examining document.)

24 Yes, sir.

25 MR. SILBERFELD: Q. My question with respect
26 to those two documents is whether you participated in any
27 committee or subcommittee of AIA whose purpose was to
28 effect favorable publicity for the asbestos industry in
response to certain unfavorable publicity that had been
issued.

A. No, sir.

25 (WHEREUPON, A PHOTOCOPY OF A
26 ONE-PAGE MEMO DATED NOVEMBER 5,
27 1973, TO MR. C. H. BARANOWSKI
28 AND MR. T. H. PARKE, JR., WAS
MARKED AS PLAINTIFFS' EXHIBIT
NO. 31 FOR IDENTIFICATION.)

FvAM 60193335
FLD 00003315

1 MR. SILBERFELD: Q. 31 is an interoffice
2 memo dated November 5, '73, from Mr. Hooker to Mr. Baranowski.
3 Let me show you that, sir.

4 A. (Witness examining document.)

5 Yes, sir.

6 (WHEREUPON, A PHOTOCOPY OF A
7 ONE-PAGE LETTER DATED JANUARY 22,
8 1974, ADDRESSED TO MR. W. H.
9 NEWTON, PACKAGING MANAGER, FROM
10 C. H. BARANOWSKI, ASSISTANT
11 MERCHANDISE MANAGER, GYPSUM
12 PRODUCTS, WAS MARKED AS PLAINTIFFS'
13 EXHIBIT NO. 32 FOR IDENTIFICATION.)

11 MR. SILBERFELD: Q. And 32 is a copy of a
12 letter from Mr. Baranowski to Mr. Newton, Gold Bond Building
13 Products, Division of National Gypsum Company, dated
14 January 22, 1974, which is on the same subject.

15 A. (Witness examining document.)

16 Q. Do you recall whether you had any role in the
17 development of warning information for joint compounds
18 manufactured for Flintkote by any other company?

19 A. No, sir.

20 Q. No, you don't recall?

21 A. Not to my knowledge did I have any part in it.

22 Q. Are you aware that a division of National Gypsum
23 manufactured a joint compound for Flintkote at or about
24 this time?

25 A. I have been told by our products manager that they
26 did.

27 / / / / / / /

28 / / / / / / /

1 (WHEREUPON, A PHOTOCOPY OF A
2 TWO-PAGE MEMO ON THE LETTERHEAD
3 OF THE FLINTKOTE COMPANY, DATED
4 FEBRUARY 19, 1974, TO MR. M. L.
JOHNSON, FROM W. H. MORTONSON,
WAS MARKED AS PLAINTIFFS' EXHIBIT
NO. 33 FOR IDENTIFICATION.)

5 MR. SILBERFELD: 33 is a copy of an interoffice
6 correspondence dated February 19, 1974, from Mr. Mortonson
7 to Mr. Johnson. It's two pages.

8 A. (Witness examining document.)

9 Yes.

10 Q. With respect to Exhibit 33, who within Flintkote was
11 charged with the responsibility of writing work practice
12 information specifically with regard to OSHA compliance?

13 A. It was done on a product per product basis.

14 Q. There's a man mentioned here by the name of Bill
15 Fassuliotis, F-a-s-s-u-l-i-o-t-i-s. Do you know who he was?

16 A. I've heard the name, but I can't place what his
17 responsibility is or who he is.

18 (WHEREUPON, A PHOTOCOPY OF A
19 ONE-PAGE MEMO ON THE LETTERHEAD
20 OF THE FLINTKOTE COMPANY, DATED
21 JUNE 5, 1974, FROM E. A. OPILA:
22 A PHOTOCOPY OF A SEVEN-PAGE DOCUMENT
23 ENTITLED "ASBESTOS AND YOUR HEALTH";
24 A PHOTOCOPY OF A SEVEN-PAGE DOCUMENT
ENTITLED "ASBESTOS AND YOUR HEALTH";
AND A PHOTOCOPY OF A ONE-PAGE
DOCUMENT ENTITLED "POTENTIAL HEALTH
HAZARD INSTRUCTIONS," WERE MARKED
AS PLAINTIFFS' EXHIBIT NO. 35 FOR
IDENTIFICATION.)

25 MR. SILBERFELD: Q. Next, I've marked as
26 34 a letter on the letterhead of The Flintkote Company from
27 Mr. Opila, dated June 5, 1974. And attached to it is a
28 booklet and an acceptance form. I'll show you that.

1 A. (Witness examining document.)

2 Yes, sir.

3 Q. Did you have any part in the writing of the booklet?

4 A. No, sir.

5 Q. Do you know if the booklet is taken verbatim from
6 any local, state or federal government agency?

7 A. I don't know.

8 Q. Do you know whether the booklet was distributed to
9 employees at any other plant other than Chicago Heights?

10 A. I don't know.

11 Q. Do you know whether it was distributed at Chicago
12 Heights?

13 A. I do not know for a fact.

14 (WHEREUPON, A PHOTOCOPY OF A
15 ONE-PAGE MEMO ON THE LETTERHEAD
16 OF THE FLINTKOTE COMPANY, DATED
17 JULY 8, 1974, TO MR. M. C.
18 CARPENTER, FROM A. R. HOOKER, JR.,
19 AND A PHOTOCOPY OF A ONE-PAGE
20 DOCUMENT ON THE LETTERHEAD OF
21 ASBESTOS INFORMATION ASSOCIATION,
22 ENTITLED "BOARD OF DIRECTORS
23 MEETING, JUNE 20, 1974, WERE
24 MARKED AS PLAINTIFFS' EXHIBIT
25 NO. 35 FOR IDENTIFICATION.)

26 MR. SILBERFELD: Q. 35 is a memo dated
27 July 8, 1974, from Mr. Hooker to Mr. Carpenter.

28 A. (Witness examining document.)

Yes, sir.

Q. With regard to No. 35, did the continuing membership
in AIA get approved?

A. Yes.

/ / / / / / /

1 (WHEREUPON, A PHOTOCOPY OF A
2 ONE-PAGE MEMO DATED SEPTEMBER 23,
3 1974, FROM W. H. MORTONSON, AND
4 A PHOTOCOPY OF A THREE-PAGE
5 MEMO ON THE LETTERHEAD OF ASBESTOS
6 INFORMATION ASSOCIATION, DATED
7 SEPTEMBER 17, 1974, FROM E. M.
8 FENNER, WERE MARKED AS PLAINTIFFS'
9 EXHIBIT NO. 36 FOR IDENTIFICATION.)

6 MR. SILBERFELD: Q. 36 is an interoffice
7 correspondence dated September 23, 1974, from Mr. Mortonson
8 to Mr. Johnson, and there are some minutes attached thereto.
9 It shows Mr. Hooker as a receiver of a copy.

10 Do you recall receiving that document, sir?

11 A. Not specifically.

12 (Witness examining document.)

13 Your question? Is that it?

14 Q. Yes.

15 A. I don't recall specifically.

16 (WHEREUPON, A PHOTOCOPY OF A
17 ONE-PAGE MEMO ON THE LETTERHEAD
18 OF THE FLINTKOTE COMPANY, DATED
19 MAY 4, 1976, TO MR. J. C. HARKNESS,
20 MR. W. HARVEY AND MR. R. RABATSKY,
21 FROM A. R. HOOKER, JR., WITH ATTACH-
22 MENTS, THE FIRST PAGE BEING ENTITLED
"COMMENTS OF JOHNS-MANVILLE CORPORATION
WITH RESPECT TO NOTICE OF PROPOSED
RULEMAKING OCCUPATIONAL EXPOSURE
TO ASBESTOS," CONSISTING OF SEVEN
PAGES, WERE MARKED AS PLAINTIFFS'
EXHIBIT NO. 37 FOR IDENTIFICATION.)

23 MR. SILBERFELD: Q. 37 is a memorandum from
24 Mr. Hooker to Messrs. Harkness, Harvey and Rabatsky, dated
25 May 4, 1976. Let me show you that. It has attachments, as
26 well.

27 A. (Witness examining document.)

28 Yes, sir.

FVAM 60193335
FLD 00003319

1 Q. Do you recall whether the report that is mentioned
2 there was ever distributed to any of the people to whom the
3 memo was addressed?

4 A. I have no recollection.

5 Q. Do you know whether the report in its entirety,
6 which is estimated to be about 150 pages, was ever produced
7 in connection with any of this litigation?

8 A. Not to my knowledge.

9 Q. Do you know if it's still in existence?

10 A. I do not.

11 (WHEREUPON, A PHOTOCOPY OF A
12 ONE-PAGE MEMO DATED AUGUST 6,
13 1976, TO MR. W. H. MORTONSON,
14 MR. E. A. OPILA, MR. W. HARVEY
15 AND MR. R. RABATSKY, FROM A. R.
16 HOOKER, JR., WAS MARKED AS
17 PLAINTIFFS' EXHIBIT NO. 38 FOR
18 IDENTIFICATION.)

16 MR. SILBERFELD: Q. 38, a copy of a memo from
17 Mr. Hooker to Messrs. Mortonson, Opila, Harvey and Rabatsky,
18 dated August 6th, 1976. I'll show you that, sir.

19 A. (Witness examining document.)

20 Yes, sir.

21 Q. With regard to that memo, it mentions certain
22 leaflets and posters. Do you recall what the substance
23 of the posters was?

24 A. Variety of substances. They were primarily warnings
25 or reminders for plant workers of potential hazards of
26 asbestos fiber.

27 Q. Do you know whether copies of any of the posters,
28 leaflets or other documents still exist at Flintkote?

1 just read in the title of that article. "Labels and
2 Advertisements That Lead to Liability," by J. Arthur
3 Miller, Chicago, Illinois.

4 MR. SILBERFELD: Q. Were you involved at
5 anytime in the middle to late '70's, Mr. Hooker, in
6 attempting to convince Celotex to place a warning label
7 on asbestos felt sheeting that the company manufactured for
8 Flintkote?

9 A. Not that I ever recall.

10 (WHEREUPON, A PHOTOCOPY OF A
11 ONE-PAGE MEMO DATED NOVEMBER 28,
12 1977, FROM W. T. HOYT, WAS
13 MARKED AS PLAINTIFFS' EXHIBIT
14 NO. 40 FOR IDENTIFICATION.)

15 MR. SILBERFELD: Q. 40 is a copy of a memorandum
16 of November 28th, 1977, addressed to Mr. R. Brown,
17 Merchandise Mart. See if you recognize that.

18 A. (Witness examining document.)

19 Yes.

20 Q. With respect to that document, does that refresh
21 your memory of when a warning was first placed on the floor
22 tile product about potential hazards from sanding of the
23 floor tile product?

24 A. As I said before, I don't know for sure. But I
25 just can't -- As far as refreshing my memory is concerned,
26 I can only go by what the document says.

27 (WHEREUPON, A PHOTOCOPY OF A
28 ONE-PAGE MEMO DATED JUNE 30,
1978, TO MR. J. C. HARKNESS AND
MR. J. C. MURPHY, FROM A. R.
HOOKER, JR., WAS MARKED AS PLAINTIFFS'
EXHIBIT NO. 41 FOR IDENTIFICATION.)

1 MR. SILBERFELD: Q. 41 is a copy of a memo
2 from Mr. Hooker to Messrs. Harkness and Murphy, dated June 30,
3 1978. I'll show you that, sir.

4 A. (Witness examining document.)

5 Yes, sir.

6 Q. With respect to No. 41, does the information
7 contained therein accurately reflect the state of your
8 knowledge about asbestos health hazards as of the time the
9 document was written in June of 1978?

10 A. My response would be that I accept what is being
11 said there, as it describes the issue at the time, as
12 reasonably accurate.

13 (WHEREUPON, A PHOTOCOPY OF A
14 ONE-PAGE MEMO ON THE LETTERHEAD
15 OF THE FLINTKOTE COMPANY, DATED
16 OCTOBER 23, 1979, TO MESSRS. J. C.
17 HARKNESS AND J. C. MURPHY, FROM
18 A. R. HOOKER, JR.,; A PHOTOCOPY OF
19 A DOCUMENT ENTITLED "GAF CORPORATION,
20 COMMENTS RELATING TO THE DEPARTMENT
21 OF LABOR'S PROPOSED ASBESTOS
22 REGULATIONS TO BE PRESENTED AT
23 THE PUBLIC HEARINGS TO BE HELD
24 ON MARCH 14, 1972, CONSISTING OF
25 THIRTEEN PAGES; A PHOTOCOPY OF A
26 ONE-PAGE HANDWRITTEN DOCUMENT WITH
27 "REMOVED DOCUMENT" AT THE TOP;
28 A PHOTOCOPY OF A ONE-PAGE HANDWRITTEN
DOCUMENT WITH "REMOVED DOCUMENT" AT
THE TOP; AND A PHOTOCOPY OF A ONE-PAGE
DOCUMENT WITH "REMOVED DOCUMENT" AT
THE TOP, WERE MARKED AS PLAINTIFFS'
EXHIBIT NO. 42 FOR IDENTIFICATION.)

24 MR. SILBERFELD: Q. Next is a memo dated
25 October 23rd, 1979, from Mr. Hooker to Messrs. Harkness
26 and Murphy. Let me show you that, sir.

27 A. (Witness examining document.)

28 Yes, sir.

1 Q. With respect to Exhibit No. 42, did you personally
2 have any role in the development of a response strategy
3 by the AIA with regard to the OSHA asbestos number?

4 MR. SCHROETER: Although 42 talks about other
5 agencies.

6 MR. SILBERFELD: Right.

7 THE WITNESS: I don't know whether there was
8 any response made by the company. And my only participation
9 is as expressed here in submitting information from AIA.

10 MR. SILBERFELD: Q. Mr. Hooker, I don't know
11 that we established earlier -- and if we did, I apologize
12 for going over it again. When did Flintkote acquire the
13 Orangeburg pipe facility?

14 A. Again, it's in the exhibits here. But I'd approximate
15 19 -- in the late '50's.

16 Q. And whom did Flintkote acquire that facility from?

17 A. The Orangeburg Manufacturing Company, which was a
18 company within itself.

19 Q. What product did that facility manufacture?

20 A. It made what is known as fiber pipe and conduit.

21 Q. Did any product manufactured there contain asbestos?

22 A. Yes, sir.

23 Q. And once the facility was purchased, did it become
24 a division of The Flintkote Company?

25 A. Yes, sir.

26 Q. At the time that the division was first acquired,
27 who ran that division?

28 A. I don't know. It was prior to my association with

1 our corporate activities.

2 Q. Do you remember whether a man by the name of Koch,
3 K-o-c-h, was employed at the Orangeburg Pipe Division?

4 A. At least in 1962, he was, when I went to corporate.

5 Q. What was his capacity at that time?

6 A. I believe it was marketing and sales.

7 (WHEREUPON, A PHOTOCOPY OF A
8 ONE-PAGE LETTER ON THE LETTERHEAD
9 OF JOHNS-MANVILLE CORPORATION,
10 DATED AUGUST 7, 1961, ADDRESSED
11 TO MR. KOCH, ORANGEBURG PIPE
12 DIVISION, FROM W. L. VANDERBEEK,
13 VICE PRESIDENT AND PRODUCTION
14 MANAGER, WAS MARKED AS PLAINTIFFS'
15 EXHIBIT NO. 43 FOR IDENTIFICATION.)

16 MR. SILBERFELD: Q. As Exhibit 43, I've marked
17 a letter on the letterhead of Johns-Manville Corporation,
18 Pipe Division, August 7, 1981, directed to Mr. Koch from
19 Mr. VanDerbeek. Let me show you that letter, sir.

20 A. (Witness examining document.)

21 Q. Have you seen that letter before today, sir?

22 A. Only in review of the documents with counsel.

23 Q. Have you and Mr. Koch ever discussed when asbestos
24 health hazards were first suspected with regard to the
25 products manufactured at the Orangeburg Pipe Division?

26 A. I do not recall of ever discussing health hazards
27 with Mr. Koch.

28 Q. Is Mr. Koch still employed by the company?

A. No, sir.

Q. Is he living?

A. I don't know.

Q. Do you know where he lived when you last knew of him?

1 A. In the environs of Ravenna, Ohio.

2 Q. What's Ravenna near?

3 A. Akron.

4 (WHEREUPON, A PHOTOCOPY OF A
5 ONE-PAGE LETTER ON THE LETTERHEAD
6 OF CANADIAN JOHNS-MANVILLE CO.,
7 LIMITED, DATED JUNE 4, 1968,
8 TO "DEAR SIR," AND A PHOTOCOPY OF
9 A THREE-PAGE DOCUMENT ENTITLED
10 "Q.A.M.A." DATED MAY 2, 1968,
11 WERE MARKED AS PLAINTIFFS' EXHIBIT
12 NO. 44 FOR IDENTIFICATION.)

13 MR. SILBERFELD: Q. 44 will be a letter on
14 the letterhead of Canadian Johns-Manville, Limited, dated
15 June 4, 1968, with certain attachments to it.

16 A. (Witness examining document.)

17 Your question?

18 Q. My question is: What was Mr. Heubner's capacity
19 in June of 1968?

20 A. Best of my knowledge, he was the corporate manager
21 of insurance and safety.

22 Q. And who was president of the company in 1968?

23 A. I believe 1968, George Pecaro, I believe, was
24 president at that time.

25 Q. With respect to Exhibit No. 44, do you recognize the
26 received stamp in the upper right-hand corner as being that
27 used by the office of the president?

28 A. I do not know whether that's our stamp or not.

Q. Have you ever seen this document or the attachments
before today?

A. No.

1 Q. Did you know a Mr. Lindell who appears, at least
2 from this, to be chairman of the board of Canadian J-M?

3 A. Yes, sir.

4 Q. Did you have contact with Mr. Lindell during your
5 years of contact with Flintkote Mines, Limited?

6 A. Yes, sir.

7 Q. Did you and Mr. Lindell ever discuss the potential
8 health hazards of asbestos exposure?

9 A. Not specifically.

10 Q. Did Mr. Lindell ever provide you or anyone else
11 at Flintkote Mines, to your knowledge, with a list of
12 documents regarding the biological effects of asbestos
13 exposure?

14 A. Not to my knowledge.

15 (WHEREUPON, A PHOTOCOPY OF A
16 ONE-PAGE LETTER ON THE LETTERHEAD
17 OF GAF CORPORATION, DATED MARCH 9,
18 1972, ADDRESSED TO MR. A. R. HOOKER,
19 JR., AND A PHOTOCOPY OF A SEVEN-PAGE
20 DOCUMENT ENTITLED "OCCUPATIONAL
21 SAFETY & HEALTH ADMINISTRATION
PUBLIC HEARINGS ON PROPOSED
REGULATIONS CONCERNING ASBESTOS
DUST, WASHINGTON, D.C. - MARCH 14,
1972, STATEMENT OF JOSEPH G. HALL,"
WERE MARKED AS PLAINTIFFS' EXHIBIT
NO. 45 FOR IDENTIFICATION.)

22 MR. SILBERFELD: Q. 45 is a letter to Mr. Hooker
23 from GAF Corporation, Mr. Dent, dated March 9, 1972, and
24 attachments. Would you take a look at that for me, sir?
25 This may also be part of that. I'm not sure, but I think
26 it is.

27 A. (Witness examining document.)

28 Your question?

1 Q. Sir, with regard to Exhibit 45 and the attachments,
2 did you ever participate in the asbestos hearings that
3 OSHA held, personally?

4 A. No, sir.

5 Q. Did you have any input with regard to what testimony
6 was given there?

7 A. By GAF?

8 Q. By anyone.

9 A. Only as it related to my activities with AIA.

10 Q. Did you formulate any written testimony that was
11 submitted at the OSHA hearings?

12 A. No, sir.

13 Q. Did you prepare a statement for the record to be
14 inserted on behalf of Flintkote?

15 A. No, sir.

16 Q. With regard to the search for substitute products
17 or substitute raw materials for the asbestos-containing
18 floor tile that Flintkote manufactured, did you learn at
19 anytime that there were companies manufacturing an asbestos-
20 free floor tile?

21 A. We made an asbestos-free floor tile ourselves at
22 that time.

23 Q. And what was that product called?

24 A. Can't even remember the name. I may think of it in
25 a minute. I'm sorry, I don't remember the name of it.

26 Q. Were you aware that there were manufacturers other
27 than Flintkote manufacturing asbestos-free floor tile in
28 the '70's when you were involved in this?

1 A. Oh, yes.

2 Q. Can you name some of those manufacturers?

3 A. If I recall correctly, they were the rubber
4 companies producing rubber based floor tile, people in the
5 linoleum business were cutting the linoleum into squares
6 and selling it as floor tiles. That covers it in general.

7 Q. Was the asbestos-free floor tile that was manufactured
8 by Flintkote different in terms of the uses to which the
9 product could be put than the asbestos-containing floor tile?

10 A. Not in a general way, no. Its use was to be put down
11 on floors.

12 Q. Well, did it have certain applications which the
13 asbestos-containing floor tile did not have?

14 A. Only as a customer might demand a nonasbestos floor
15 tile or require the characteristics of that particular
16 product.

17 (WHEREUPON, A PHOTOCOPY OF A
18 ONE-PAGE MEMO ON THE LETTERHEAD
19 OF RESILIENT FLOOR COVERING
20 INSTITUTE, DATED AUGUST 10, 1977,
21 TO RFCI MEMBERS FROM ROBERT D.
22 MAURER, MANAGING DIRECTOR, AND
23 A PHOTOCOPY OF FIVE PAGES, THE
24 FIRST PAGE BEING ENTITLED
25 "NIOSH LISTS TRADE NAME PRODUCTS
26 CONTAINING CARCINOGENS REGULATED
27 BY OSHA," WERE MARKED AS
28 PLAINTIFFS' EXHIBIT NO. 46 FOR
IDENTIFICATION.)

24 MR. SILBERFELD: Q. 46 is a letter on the
25 letterhead of the Resilient Floor Covering Institute, dated
26 August 10, 1977, to RFCI Members from Mr. Maurer,
27 M-a-u-r-e-r, managing director, and it has attachments to
28 it. I'll ask you if you've ever seen that document before.

1 A. (Witness examining document.)

2 Yes, sir. Your question?

3 Q. Have you seen that before today, sir?

4 A. I have seen a list before. Not necessarily that
5 document.

6 Q. With respect to the Flintkote products listed on
7 the list of carcinogenic agents there, have you ever
8 personally participated in any attempt to have Flintkote
9 products removed from that list?

10 MR. SCHROETER: Don't answer that right now.
11 Which ones are Flintkote products in your view? Just point
12 them out.

13 MR. SILBERFELD: C-13-C4, Hydralt 800-13.

14 THE WITNESS: No, sir.

15 MR. SILBERFELD: Q. And the second one is
16 Weatherproofing Compound, C 13A.

17 A. No, sir.

18 MR. SILBERFELD: Thank you. I believe that's
19 all I have.

20 MR. GRELL: I have just a couple of
21 questions, Mr. Hooker.

22

23 FURTHER EXAMINATION BY MR. GRELL

24 MR. GRELL: Q. I don't have the document.
25 The exhibits are kind of floating around here now. But
26 there was a warning insert that was placed on boxes of
27 floor tiles.

28 A. I know what you're speaking of.

1 MR. SILBERFELD: Exhibit 19.

2 MR. GRELL: Q. Exhibit 19.

3 I'm not quite sure if I understood you correctly.
4 Was it in 1977, the first time that such a warning was
5 put inside boxes of asbestos floor tile?

6 A. I believe that is correct. I would have to go back
7 and search my records to see when that showed up.

8 Q. And that Exhibit 19, that was an insert that was put
9 into the boxes?

10 A. Yes, sir.

11 Q. And it could be pulled out of the box when the
12 box was opened?

13 A. That's right.

14 Q. Were there any warning ever placed on the box
15 itself that the asbestos floor tile was contained in?

16 A. Not that I remember.

17 Q. Do you recall ever putting a warning on the back
18 of the tile, the asbestos floor tile?

19 A. No, sir.

20 Q. Was there any indication of any warning on the
21 front of the asbestos floor tile?

22 A. No, sir.

23 Q. Earlier, there were some questions regarding your
24 involvement with government specifications, and you said
25 that your involvement was with marketing and sales, and I
26 wasn't quite sure what you meant by that. Just exactly
27 what was your involvement?

28 A. I don't remember what question I was responding to.

1 But certain periods of time, I had certain responsibilities.
2 Other periods of time, I didn't have those responsibilities.
3 And I was trying to define, whatever I was responding to,
4 what question I was responding to, that during the time I
5 was involved in sales and marketing, I answered the question.

6 Q. Your involvement in sales and marketing was in the
7 '40's and '50's; is that correct?

8 MR. SCHROETER: He told you that yesterday.

9 MR. GRELL: I was just trying to go back.

10 THE WITNESS: I wasn't, in those years,
11 involved in sales and marketing.

12 MR. GRELL: Q. During that time period
13 when you had responsibilities regarding federal specifica-
14 tions, what were those responsibilities?

15 A. As assistant manager --

16 MR. JUDY: Wait a minute. Federal
17 specifications as opposed to military specifications?

18 MR. GRELL: Q. Military specifications.

19 A. A military spec is a federal spec, if I may so
20 encompass.

21 Q. Fine.

22 A. And we were involved in marketing products to the
23 military establishment. Where necessary, we either supplied
24 a product to meet those specifications, or if the military
25 wanted our product, we tried to develop a specification
26 with them to meet our product.

27 Q. Did you work within the government in developing
28 a specification?

1 A. At local level. Not -- We would work with the local
2 facility to develop a specification for our products.

3 This is West Coast operation only that I was involved in
4 in those years.

5 Q. Was that the full extent of your responsibilities?
6 You would work with the local agencies for developing
7 specifications?

8 A. Only from a sales point of view. We're trying to
9 sell product.

10 I don't understand what else you're looking for.

11 Q. I don't understand exactly what it was that you did
12 when you would talk to the government regarding developing
13 specifications. And that's my question.

14 A. We had a product we would try to sell them. And
15 we would give them our specifications for that product,
16 performance specifications. And in order for them to buy
17 it, if it was necessary for them to have an approved
18 specification, we would work with them to get that specifi-
19 cation approved.

20 Q. This deposition was continued from yesterday, and
21 I was just wondering, is there anything that you testified
22 to yesterday or this morning that you feel may have been
23 incorrect and needs to be changed?

24 A. Can I make reference, Counsel, to the conversation
25 we had prior to the meeting this morning?

26 MR. SCHROETER: What you and I talked about
27 is none of his business.

28 THE WITNESS: We were talking to another

1 party.

2 MR. SCHROETER: There had been a dialogue --

3 MR. MURRAY: If you're talking about the
4 conversation you had with me, you certainly have my
5 permission.

6 THE WITNESS: That's what I'm referring to.

7 MR. MURRAY: And I've already asked you
8 questions about that area.

9 MR. GRELL: Q. You've cleared that up
10 regarding -- I think it was Exhibit 3 -- on the record.

11 MR. SCHROETER: Mr. Murray has taken care of
12 that on the record, and what he said more than reflects
13 what we said prior to.

14 MR. GRELL: Q. Other than that, is there
15 anything else that you feel needs to be corrected?

16 A. At this time, no. I reserve the right to look at
17 the transcript.

18 Q. Sure. You'll have an opportunity.

19 MR. SCHROETER: The time has now come for us
20 to go home.

21 MR. O'CONNELL: I have a question on one of
22 the exhibits which was introduced in the last moments. It
23 will only take a few minutes.

24

25 EXAMINATION BY MR. O'CONNELL

26 MR. O'CONNELL: Q. Mr. Hooker, I'm Randy
27 O'Connell, representing GAF.

28 This is in reference to Exhibit 45, the letter from

1 Mr. Dent of GAF to you.

2 Did you know Mr. Dent through the AIA?

3 A. Yes, sir.

4 Q. Did you ultimately send any comments on the draft
5 testimony or otherwise participate in any testimony GAF
6 might have given at that OSHA hearing?

7 A. I didn't personally.

8 Q. Are you aware of any?

9 A. I'm not aware of any.

10 Q. And to your knowledge, did GAF ever participate
11 in the formulation of any testimony which Flintkote might
12 have ever given to OSHA?

13 A. To my knowledge, Flintkote never gave any testimony
14 to OSHA. To my knowledge, they never did.

15 Q. And as far as you know, was the only reason for the
16 circulation of this testimony to you your common participa-
17 tion in AIA?

18 A. Yes, sir.

19 MR. O'CONNELL: That's all I have.

20 MR. GRELL: I just have one clarification.

21 My last line of questioning referred to an Exhibit
22 19, which was the warning that was the insert put in the
23 asbestos floor tile. It turns out that is Exhibit 20,
24 and I would like the record changed.

25 MR. SILBERFELD: With respect to the original,
26 can we stipulate that the original transcript will be sent
27 to Mr. Schroeter, and Mr. Schroeter will see that it is
28 transmitted to the witness for his review and signature?

1 MR. SCHROETER: Under penalty of perjury without
2 a notary.

3 MR. SILBERFELD: Mr. Schroeter will be the
4 custodian of the original. He'll give us notice of any
5 changes. And if all that isn't accomplished within 45
6 days of the time Mr. Schroeter gets it from the reporter,
7 a copy can be used for all purposes.

8 MR. SCHROETER: I'll stipulate to that.

9
10 (Whereupon, the deposition was concluded at 11:30
11 o'clock a.m.)
12
13
14

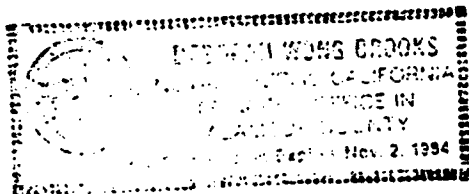
15 _____
16 SIGNATURE OF WITNESS
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1 STATE OF CALIFORNIA)
2 COUNTY OF ALAMEDA) ss.
3

4 I, the undersigned, a Notary Public of the State
5 of California, hereby certify that the witness in the
6 foregoing deposition was by me duly sworn to testify to
7 the truth, the whole truth, and nothing but the truth in
8 the within-entitled cause; that said deposition was taken
9 at the time and place therein stated; that the testimony
10 of said witness was reported by me, a Certified Shorthand
11 Reporter and a disinterested person, and was thereafter
12 transcribed under my direction into typewriting; that the
13 foregoing is a full, complete and true record of said
14 testimony; and that the witness was given an opportunity
15 to read and, if necessary, correct said deposition and
16 to subscribe the same.

17 I further certify that I am not of counsel or
18 attorney for either or any of the parties in the foregoing
19 deposition and caption named, nor in any way interested in
20 the outcome of the cause named in said caption.

21 IN WITNESS WHEREOF, I have hereunto set my hand
22 and affixed my seal this 27th day of April 1984
23



Patricia Callahan
NOTARY PUBLIC
STATE OF CALIFORNIA