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(1922 - 1991)

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6449-9999

February 21, 1995

Ms. Lisa Blue  
BARON & BUDD  
3102 Oak Lawn Ave., Suite 1100  
Dallas, Texas 75219



RE: Notice of Intention to Take Oral Deposition of the custodians of records for A.P. Green, Armstrong Industries, GAF, Asbestos Claims Management Corp., and U.S. Gypsum in the Baron & Budd asbestos-related personal injury or death cases filed or to be filed in Dallas County.

Dear Lisa:

The above referenced Defendants are willing to cooperate in this discovery matter. To avoid undue cost and inconvenience, Defendants are willing to stipulate as follows, if you agree, as David Crowe has indicated you have in other cases, to cancel the depositions and assure that the documents authenticated and identified as business records will only be used in Baron & Budd cases.

GAF Corporation will admit the authenticity of GF-406, GF-407, GF-413, GF-28C, GF-108, GF-28I, GF-112, GF-393, GF-425 and AIA-9. GAF Corporation will admit GF-406, GF-407, and GF-413 are business records of GAF Corporation, but denies GF-28C, GF-28I, GF-108, GF-112, GF-393, GF-425 and AIA-9 are business records of GAF Corporation. GAF cannot admit the authenticity of GF-437, GF-438, AIA-6, GF-49, GF-89, and GF-398 because they are not in GAF Corporation's files. GAF will not object to the authenticity of GF-49, GF-89 and GF-398. GAF admits GF-89 and GF-398 were business records of Ruberoid Co. GAF denies that GF-437, GF-438, AIA-6, and GF-49 were business records of GAF. GAF will admit it possessed the original of GF-49 and GF-398 at some time before the sale of the mine in 1975. GAF will not dispute the authenticity of GF-94 or that it is a business record of GAF. GAF cannot admit the

authenticity of GF-91 and GF-415, because they are incomplete.

Armstrong will admit the authenticity of A-122, A-123, and A-199. Armstrong will admit A-122 and A-123 are business records of Armstrong. Regarding A-199, the Nevada Industrial Commission letter dated August 24, 1959 is not a business record of Armstrong. The August 5, 1959 letter to J.S. Taylor, the August 10, 1959 letter from John Taylor and the report of injury or occupational disease are business records of Armstrong. Armstrong cannot admit the authenticity of A-143 because it is an AC&S document, or A-202 because it was never included in Armstrong's files. A-143 and A-202 are not business records of Armstrong.

U.S. Gypsum will admit USG-53 is a business record of USG and will not contest its authenticity. U.S. Gypsum cannot authenticate USG-2, USG-10, USG-76, USG-185, USG-203, USG-204, USG-206, SL-64, SL-65, SL-71, or JM-205, because U.S. Gypsum received these documents during the course of asbestos litigation and does not know whether they are true copies of the originals. Further, U.S. Gypsum cannot admit that USG-2, USG-10, USG-76, USG-185, USG-203, USG-204, USG-206, SL-64, SL-65, SL-71, or JM-205, are its business records, because U.S. Gypsum has no knowledge that they were generated at or near the time of the event or that they were generated or received in the normal course of business. U.S. Gypsum will admit USG-286 is authentic. U.S. Gypsum denies that USG-286 is its business record, but will admit it is a business record of a former subsidiary, Canadian Gypsum Co. U.S. Gypsum will admit USG-233 is authentic, but denies it is a business record of U.S. Gypsum because it was not made by information transmitted by a person with knowledge. U.S. Gypsum claims the attorney client privilege as to USG-236. Regarding USG-232, U.S. Gypsum will admit the memo dated October 13, 1966 is authentic and is a business record of U.S. Gypsum. U.S. Gypsum will not contest the authenticity of the attachment, pg. 32 of Chemical Week, September 10, 1966. U.S. Gypsum will admit USG-223 is authentic. While USG-275 is an accurate copy of the document found in U.S. Gypsum's file, U.S. Gypsum cannot admit that USG-275 is authentic. USG-223 and USG-275 are not business records of U.S. Gypsum.

Regarding the copies requested of USG-223, SL-64, SL-65, SL-71, and JM-206, U.S. Gypsum has made a reasonable search for more legible copies and has been unable to locate any.

National Gypsum will forward more legible copies of NG-67, NG-69, and NG-135. National Gypsum could not locate a more legible copy of NG-306.

National Gypsum will admit NG-11, NG-29, NG-240, NG-292, NG-306, and the typewritten portion of NG-281 are authentic copies of the documents found in National Gypsum files. National Gypsum will admit NG-11 and NG-292 are business records of National Gypsum. National Gypsum cannot identify NG-29 as a business record because the identity of its author is unknown and National Gypsum has no way of knowing whether it was prepared by a person with knowledge

of the matter recorded. National Gypsum cannot admit NG-281 is a business record of National Gypsum because it was not prepared at the direction of National Gypsum. National Gypsum cannot admit the authenticity of NG-192, because a copy of this document is not in National Gypsum's file. Additionally, it is not a business record of National Gypsum because it was not National Gypsum's practice to make such a record. National Gypsum denies that NG-240 is a business record because it was not prepared in the regular course of business at or near the time of the event. National Gypsum cannot admit NG-306 is a business record because the author is unknown and it was not the regular practice of National Gypsum to prepare such record.

A.P. Green will admit APG-5, APG-6, APG-7, and APG-8 are authentic. They are also business records of A.P. Green. While A.P. Green does not have a copy of APG-9 in its files, it will not contest its authenticity. A.P. Green cannot admit APG-10 through APG-24 are authentic or business records of A.P. Green because these documents were not generated by A.P. Green and do not relate to A.P. Green. A.P. Green cannot authenticate APG-25 through APG-37 because it did not generate these documents and has no record of membership during these periods. APG-25 through APG-37 are not business records of A.P. Green. A.P. Green admits APG-39 is authentic and is a business record of A.P. Green. Regarding APG-59, APG-64, APG-65, APG-66, APG-67, and APG-68, annual publications of the National Safety Council after 1950, A.P. Green admits an employee of A.P. Green was a member of the National Safety Council during this time, however, A.P. Green cannot authenticate these documents, because they are not in its files. Additionally, these documents are not business records of A.P. Green. A.P. Green cannot authenticate APG-58, APG-60, APG-61, APG-62, and APG-63 because A.P. Green had no employees as members of the National Safety Council at that time, and they are not business records of A.P. Green. A.P. Green cannot authenticate APG-45 through APG-56 because they have no relation to A.P. Green. Additionally, they are not business records of A.P. Green.

Defendants, Armstrong World Industries, A.P. Green, GAF, Asbestos Claims Management Corp. f/k/a National Gypsum, and U.S. Gypsum, will reserve without waiver their right to object to the use of the documents on Plaintiffs' Exhibit List on any ground in any proceeding in any action, including but not limited to the ground of relevance. Defendants will reserve without waiver their right to object to a demand or request at any time for a further response to this discovery request or to any other interrogatories, document requests or other discovery proceedings involving or relating to the subject matter of the discovery requests made the subject of these depositions.

Please advise as to whether you will agree to the stipulations in lieu of oral deposition. If we have not reached an agreement by February 23, 1995, we will move to quash the depositions. Consider that any documents which we cannot agree to authenticate by

stipulation will not and cannot be authenticated by deposition.

Thank you for your attention. I look forward to your response.

Sincerely,

Constance R. Ariagno  
Constance R. Ariagno