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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO

LERoy WHITE AND CHRISTINE WHITE,)
)
 PLAINTIFFS,)
)
 VS.) NO. 430305
)
 AGCO CORPORATION, ET AL.,)
)
 DEFENDANTS.)
 _____)

DEPOSITION OF CARLO MARTINO
SAN FRANCISCO, CALIFORNIA
THURSDAY, SEPTEMBER 2, 2004

REPORTED BY:
MARIA A. MORA
C.S.R. NO. 12001, R.P.R.

JOB NO.
38358HAN

APPEARANCES:

FOR THE PLAINTIFFS:

PAUL, HANLEY & HARLEY, L.L.P.

BY: J. BRUCE JACKSON

ATTORNEY AT LAW

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SUITE 300

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510.559.9980

FOR THE DEFENDANT UNION CARBIDE CORPORATION:

MC KENNA, LONG & ALDRIDGE, L.L.P.

BY: LISA L. OBERG

ATTORNEY AT LAW

ONE MARKET

SPEAR TOWER, SUITE 3500

SAN FRANCISCO, CALIFORNIA 94105-1475

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9/2/2004 Martino, Carlo in White

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LERoy WHITE AND CHRISTINE WHITE,)
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 VS.) CASE NO. 430305
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 AGCO CORPORATION, ET AL.,)
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 DEFENDANTS.)
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DEPOSITION OF CARLO MARTINO, TAKEN ON BEHALF OF
THE PLAINTIFFS AT ONE MARKET PLAZA, SPEAR TOWER,
SUITE 3500, SAN FRANCISCO, CALIFORNIA
COMMENCING ON THURSDAY, SEPTEMBER 2, 2004,
9:41 A.M., BEFORE MARIA A. MORA, CSR NO. 12001,
RPR, A CERTIFIED SHORTHAND REPORTER IN AND FOR
THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA.

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MARKED QUESTIONS

(NONE)

INFORMATION TO BE SUPPLIED

(NONE)

2

4

1 SAN FRANCISCO, CALIFORNIA, THURSDAY, SEPTEMBER 2, 2004
 2 9:41 A.M.
 3
 4 (PLAINTIFFS' EXHIBIT 1 WAS MARKED FOR IDENTIFICATION
 5 BY THE CERTIFIED SHORTHAND REPORTER.)
 6 (DEFENDANT'S EXHIBIT A WAS MARKED FOR IDENTIFICATION
 7 BY THE CERTIFIED SHORTHAND REPORTER.)
 8
 9 CARLO MARTINO,
 10 HAVING BEEN FIRST DULY SWORN, WAS
 11 EXAMINED AND TESTIFIED AS FOLLOWS:
 12
 13 EXAMINATION
 14 BY MR. JACKSON:
 15 Q GOOD MORNING, MR. MARTINO. ONCE AGAIN, MY NAME
 16 IS BRUCE JACKSON. I'M COUNSEL FOR THE PLAINTIFFS IN
 17 THESE MATTERS. YOU UNDERSTAND YOU'RE UNDER OATH TODAY
 18 TO GIVE A DEPOSITION IN TWO DIFFERENT LAWSUITS, THE
 19 LINDA WALDEN CASE AND THE LEROY WHITE CASE?
 20 MS. OBERG: I WANT TO INDICATE THAT THE LINDA
 21 WALDEN CASE HAS BEEN DISMISSED.
 22 MR. JACKSON: OH, YOU GUYS ARE NO LONGER --
 23 MS. OBERG: YES. AGAINST UNION CARBIDE.
 24 BY MR. JACKSON:
 25 Q OKAY. SO AS FAR AS THE FORMALITY OF YOUR

5

1 DEPOSITION TODAY, THEN, LET ME REPHRASE MY QUESTION.
 2 YOU UNDERSTAND YOU'RE UNDER OATH TODAY TO GIVE A
 3 DEPOSITION IN THE LEROY WHITE CASE?
 4 A YES.
 5 Q YOU'VE GIVEN DEPOSITIONS IN THE PAST; IS THAT
 6 CORRECT?
 7 A YES.
 8 Q AND I READ A DEPOSITION THAT YOU GAVE BACK IN
 9 MAY OF 2001 OVER THE TELEPHONE IN THE RICHARD YEAGER
 10 CASE. DO YOU RECALL THAT DEPOSITION?
 11 A I -- THE NAME -- I DON'T RECALL THE EXACT NAME,
 12 NO.
 13 Q OKAY. SO THE NAME OF THE CLIENT DOESN'T
 14 MEAN --
 15 A NO.
 16 Q -- ANYTHING TO YOU, BUT DO YOU RECALL GIVING A
 17 DEPOSITION OVER THE PHONE ABOUT THAT TIME, MAY OF 2001,
 18 IN AN ASBESTOS-RELATED LAWSUIT?
 19 A YES.
 20 Q YOU ALSO TESTIFIED AT TRIAL IN SAN FRANCISCO IN
 21 THE VICTOR TRINCHESE CASE. DOES THAT LAWSUIT RING A
 22 BELL?
 23 A AGAIN, I DON'T REMEMBER THE NAMES, BUT I DID
 24 TESTIFY AT TRIAL.
 25 Q OKAY. THOSE ARE THE TWO OCCASIONS THAT I KNOW

6

1 ABOUT. CAN YOU THINK OF ANY OTHER TIMES WHERE YOU'VE
 2 GIVEN A DEPOSITION AND TESTIFIED AT TRIAL JUST FOR AN
 3 ASBESTOS LAWSUIT?
 4 A I'VE GIVEN ABOUT SIX OR SEVEN DEPOSITIONS --
 5 Q OKAY.
 6 A -- OVER THE PAST THREE YEARS.
 7 Q OKAY. AND ARE THOSE ALL DEPOSITIONS THAT HAD
 8 SOMETHING TO DO WITH AN ASBESTOS CASE?
 9 A YES.
 10 Q OKAY. CAN YOU THINK OF ANY OTHER PLACES THAT
 11 YOU'VE ACTUALLY GIVEN DEPOSITION TESTIMONY IN AN
 12 ASBESTOS CASE?
 13 MS. OBERG: WHEN YOU SAY "PLACES," PLACES WHERE
 14 THE WITNESS WAS?
 15 BY MR. JACKSON:
 16 Q YEAH, WHERE YOU WERE. I MEAN WERE THEY ALL
 17 TELEPHONIC FROM NEW JERSEY?
 18 A NO.
 19 Q OKAY. HAVE YOU TESTIFIED IN ANY OTHER
 20 COURTROOMS ASIDE FROM SAN FRANCISCO?
 21 A NOT SINCE -- NO. JUST SAN FRANCISCO.
 22 Q OKAY. AND ASIDE FROM COMING TO THE
 23 SAN FRANCISCO AREA TO TESTIFY OR TELEPHONICALLY IN NEW
 24 JERSEY, ARE THERE ANY OTHER PLACES THAT YOU HAD TO GO
 25 FOR A DEPOSITION IN AN ASBESTOS CASE?

7

1 A NO.
 2 Q OKAY. PROBABLY THE EASIEST WAY TO DO THIS: ON
 3 EACH OF THOSE OCCASIONS WAS MC KENNA, LONG & ALDRIDGE --
 4 WAS THEIR LAW FIRM REPRESENTING YOU AT THE DEPOSITION?
 5 A NOT THE FIRST ONES.
 6 Q OKAY. WERE THE FIRST ONES A LAW FIRM ON BEHALF
 7 OF UNION CARBIDE?
 8 A YES.
 9 Q OKAY. ALL RIGHT. I READ A LITTLE BIT ABOUT
 10 YOUR BACKGROUND. AS I UNDERSTAND IT, YOU STARTED WITH
 11 UNION CARBIDE IN THE BAKELITE DIVISION IN 1948. IS THAT
 12 RIGHT?
 13 A THAT'S RIGHT.
 14 Q AND BECAME A GROUP MANAGER IN THE MOLDING AND
 15 LAMINATED RESINS GROUP IN 1960?
 16 A THAT'S RIGHT.
 17 Q AND A SENIOR GROUP MANAGER IN 1970?
 18 A YES.
 19 Q AND WHEN DID YOU RETIRE FROM UNION CARBIDE?
 20 A 1996.
 21 Q OKAY. HAVE YOU BEEN EMPLOYED SINCE '96?
 22 A NO.
 23 Q NO. AND ARE YOU CURRENTLY EMPLOYED?
 24 A NOTHING OTHER THAN WHAT I'M DOING --
 25 Q OKAY.

8

1 A -- HERE AS A -- AS A CONSULTANT.
 2 Q OKAY. AND ARE YOU PAID FOR YOUR CONSULTING
 3 WORK THAT YOU'VE DONE IN ASBESTOS CASES?
 4 A YES.
 5 Q HOW ARE YOU PAID? HOW ARE YOU COMPENSATED?
 6 A I SUBMIT AN INVOICE EVERY SIX MONTHS.
 7 Q OKAY. IS IT ON AN HOURLY BASIS, FOR EXAMPLE?
 8 A YES.
 9 Q OKAY. AND JUST FOR THIS CASE TODAY, ARE YOU
 10 BEING COMPENSATED FOR THE WORK THAT YOU'VE HAD TO DO IN
 11 THE LEROY WHITE MATTER?
 12 A NOT YET.
 13 Q OKAY. IT'S YOUR UNDERSTANDING THAT AT SOME
 14 POINT YOU WILL BE?
 15 A YES.
 16 Q OKAY. CAN YOU TELL ME JUST BECAUSE OF THE
 17 LEROY WHITE CASE HOW MUCH TIME YOU'VE HAD TO SPEND
 18 CONSULTING FOR UNION CARBIDE?
 19 MS. OBERG: A NUMBER OF HOURS?
 20 BY MR. JACKSON:
 21 Q YEAH, JUST TIMEWISE.
 22 A JUST FOR THAT CASE?
 23 Q JUST FOR THIS CASE, YEAH.
 24 A OH, UP UNTIL NOW PROBABLY A COUPLE OF HOURS.
 25 Q OKAY. AND WHAT'S YOUR HOURLY RATE FOR YOUR

9

1 CONSULTING WORK?
 2 A \$150 AN HOUR.
 3 Q OKAY. AND DO YOU ALSO CHARGE FOR YOUR TIME TO
 4 TRAVEL?
 5 A YES.
 6 Q HOW DO YOU CHARGE? 150 AN HOUR?
 7 A NO. SEVENTY-FIVE.
 8 Q OKAY. AND I UNDERSTAND THAT YOU ARE -- YOU'RE
 9 FORM FORMALLY RETIRED, BUT ABOUT HOW MANY HOURS A YEAR
 10 OR HOW MUCH TIME A YEAR DO YOU SPEND CONSULTING?
 11 A OH, IT VARIES. IT'S RANGED FROM MAYBE 15 HOURS
 12 TO FOUR DAYS. SAY TWO WEEKS.
 13 Q OKAY. SO WE'RE IN SEPTEMBER OF THIS YEAR.
 14 JUST OVER THE LAST YEAR APPROXIMATELY HOW MUCH TIME HAVE
 15 YOU SPENT CONSULTING FOR UNION CARBIDE?
 16 MS. OBERG: AGAIN, IN HOURS, JUST THE
 17 APPROXIMATE NUMBER OF HOURS?
 18 BY MR. JACKSON:
 19 Q YEAH, JUST TO GIVE ME AN IDEA. IN OTHER WORDS
 20 IT'S NOT FULL TIME OBVIOUSLY, BUT I REALLY DON'T KNOW
 21 HOW OFTEN YOU'RE DOING IT. SO JUST SAY FROM JANUARY 1
 22 TILL TODAY.
 23 A THIS YEAR -- WELL, UP UNTIL THIS POINT, I WOULD
 24 ESTIMATE ABOUT TWO WEEKS.
 25 Q OKAY. ALL RIGHT. I WANT TO ASK YOU ABOUT THE

10

1 BAKELITE DIVISION, AND I THINK FOR -- TO MAKE IT A
 2 LITTLE EASIER I WAS GOING TO TRY TO CONFINE THE TIME
 3 FRAMES OF MY QUESTIONS BASED ON YOUR EMPLOYMENT WITH THE
 4 COMPANY.
 5 SO THE FIRST PART OF THE QUESTIONING I WANTED
 6 TO ASK YOU FROM THE TIME YOU STARTED IN THE BAKELITE
 7 DIVISION UNTIL 1960 WHEN YOU BECAME GROUP MANAGER, SO
 8 FOR JUST THAT PERIOD OF YOUR CAREER. AT THAT TIME WERE
 9 YOU AWARE OF WHAT PRODUCTS THE UNION CARBIDE BAKELITE
 10 DIVISION WAS MAKING?
 11 A IN WHAT PERIOD OF TIME AGAIN?
 12 Q FROM THE TIME YOU STARTED IN '48 UNTIL YOU
 13 BECAME A GROUP MANAGER IN 1960.
 14 A IN GENERAL, I WAS.
 15 Q OKAY. SO JUST THE GENERAL CATEGORY OF
 16 PRODUCTS?
 17 A YES.
 18 Q WHAT WERE THOSE PRODUCTS?
 19 A WELL -- AND DURING THAT PERIOD I WAS ASSIGNED
 20 TO THE POLYSTYRENE R & D -- YOU KNOW, FROM '49 TO I
 21 THINK '58 TO THE POLYSTYRENE R & D AREA, AND I KNEW
 22 THOSE PRODUCTS IN -- IN DEPTH. I WAS AWARE OF WHAT WAS
 23 GENERALLY BEING MADE IN THE OTHER AREAS BUT NOT IN
 24 DEPTH.
 25 Q OKAY. SPECIFICALLY BETWEEN '48 AND '60 WERE

11

1 YOU AWARE THAT UNION CARBIDE WAS MAKING SOME PHENOLIC
 2 MOLDING MATERIALS PER SE?
 3 A YES.
 4 Q AND SOME OF THOSE PHENOLIC MOLDING MATERIALS
 5 CONTAINED ASBESTOS. IS THAT YOUR UNDERSTANDING?
 6 A YES.
 7 Q OKAY. DO YOU HAVE ANY INFORMATION TODAY OF WHO
 8 THOSE PRODUCTS WERE BEING SOLD TO IN THIS TIME PERIOD,
 9 BETWEEN 1948 AND 1960?
 10 A NOT WITHOUT LOOKING AT RECORDS.
 11 Q OKAY. AND WHEN I SAY "WHO" I MEAN JUST
 12 GENERALLY THE TYPES OF CUSTOMERS THAT UNION CARBIDE SOLD
 13 THOSE PRODUCTS TO.
 14 A TYPES, YES.
 15 Q OKAY. GENERALLY WHAT WOULD BE THE CATEGORY OF
 16 CUSTOMERS THAT THEY WERE SELLING TO IN THIS TIME FRAME?
 17 A WASHING MACHINE AGITATORS, IRON HANDLES, RADIO
 18 CABINETS, TELEVISION CABINETS, ELECTRICAL PARTS, KNOBS,
 19 POT HANDLES, AUTOMOTIVE PARTS.
 20 Q ANYTHING ELSE THAT YOU CAN THINK OF TO ADD TO
 21 THAT LIST?
 22 A NONE THAT COME TO ME -- TO MIND RIGHT NOW.
 23 Q OKAY. SO THE CUSTOMERS WOULD BE THE VARIOUS
 24 MANUFACTURERS OF THESE TYPES OF THINGS --
 25 A YES.

12

1 Q -- THAT YOU DESCRIBED?

2 A YES.

3 Q AND YOU UNDERSTOOD WHEN I WAS ASKING YOU ABOUT

4 THAT I WAS ASKING IN PARTICULAR ABOUT PHENOLIC MOLDING

5 MATERIALS?

6 A YES.

7 Q OKAY. IN THAT TIME FRAME, DID THE BAKELITE

8 DIVISION HAVE SOME PROCESS OF KEEPING TRACK OF WHO THEIR

9 CUSTOMERS WERE?

10 A YES.

11 Q AND HOW WAS THAT DONE? WAS IT THROUGH THEIR

12 SALES DIVISION OR A PARTICULAR DIVISION?

13 A YES.

14 MS. OBERG: I'M GOING TO OBJECT. LACKS

15 FOUNDATION. MAY CALL FOR SPECULATION DURING THIS PERIOD

16 OF TIME.

17 IF YOU KNOW WITHIN THE BAKELITE DIVISION HOW

18 THEY TRACKED THEIR MOLDING COMPOUND SALES, GO AHEAD. I

19 MUST WANT TO MAKE SURE WE'RE DEALING WITH PERSONAL

20 KNOWLEDGE HERE.

21 MR. JACKSON: RIGHT. AND I'M GOING TO -- I'M

22 GOING TO TRY AND ESTABLISH THAT FOUNDATION IF I CAN.

23 MS. OBERG: GO AHEAD, PLEASE.

24 BY MR. JACKSON:

25 Q AND KEEP IN MIND RIGHT NOW THE TIME FRAME SO I

13

1 DON'T GET SO BROAD THAT IT'S HARD TO KEEP TRACK. IT'S

2 JUST FROM THE TIME YOU STARTED UNTIL 1960, WHEN YOU

3 BECAME A GROUP MANAGER.

4 SO IN THAT TIME FRAME DID BAKELITE HAVE -- THE

5 BAKELITE DIVISION HAVE SOME SALES DIVISION THAT KEPT

6 TRACK OF WHO THEIR CUSTOMERS WERE?

7 A YES.

8 Q DID YOU KNOW THE INDIVIDUAL WHO WAS IN CHARGE

9 OF THE SALES DIVISION AT THAT PARTICULAR TIME FRAME, '48

10 TO '60?

11 A THERE WERE MANY, BUT THE SPECIFIC NAMES I DON'T

12 RECALL NOW.

13 Q HOW ABOUT JUST THE POSITION THAT IT WOULD

14 ENTAIL? WOULD IT BE SALES MANAGER, YOU KNOW?

15 A SALES MANAGER.

16 Q OKAY. DID YOU HAVE ANY INVOLVEMENT WITH THE

17 SALES DEPARTMENT OR THE SALES DIVISION IN THIS TIME

18 FRAME, BETWEEN 1948 AND 1960?

19 A FOR --

20 MS. OBERG: OF --

21 BY MR. JACKSON:

22 Q OF THE BAKELITE DIVISION.

23 A WELL, THE POLYSTYRENE BUSINESS I WAS IN WAS

24 PART OF THE BAKELITE DIVISION. SO --

25 MS. OBERG: JUST BRIEFLY, I THINK YOUR QUESTION

14

1 IS DIRECTED TO MOLDING COMPOUNDS.

2 MR. JACKSON: YEAH.

3 MS. OBERG: SO IF YOU CAN CLARIFY.

4 THE WITNESS: YEAH.

5 MS. OBERG: THE TERM BAKELITE --

6 THE WITNESS: YEAH.

7 BY MR. JACKSON:

8 Q IF IT MAKES IT EASIER, DID THE BAKELITE

9 DIVISION HAVE A SALES DIVISION THAT HANDLED THE PHENOLIC

10 MOLDING COMPOUND?

11 A YES, THEY DID.

12 Q OKAY. WERE THE SALES OF THE PHENOLIC MOLDING

13 COMPOUNDS DONE FROM A DIFFERENT SALES DIVISION THAN, FOR

14 INSTANCE, THE SALES OF THE POLYSTYRENE PRODUCTS?

15 A YES.

16 Q OKAY. SO THEY HAD DIFFERENT SALES DEPARTMENTS.

17 A YES.

18 Q OKAY.

19 A YOUR QUESTIONING -- ONCE I GOT INTO THE

20 PHENOLIC MOLDING AREA, I HAD ACCESS TO THOSE BACK

21 RECORDS. SO TO --

22 Q I SEE.

23 A -- COMPARTMENTALIZE EVERYTHING IS, YOU KNOW --

24 IT ISN'T A PURE DIVISION.

25 Q OKAY. SO IT SOUNDS LIKE SOME OF YOUR

15

1 UNDERSTANDING OF HOW THE SALES DEPARTMENT OR SALES

2 DIVISION OPERATED YOU LEARNED AT A LATER POINT IN YOUR

3 CAREER.

4 A (NO AUDIBLE RESPONSE).

5 Q OKAY. AND YOU SAID THAT WAS WHEN YOU BECAME

6 INVOLVED WITH THE PHENOLIC MOLDING AREA OR DIVISION.

7 A YEAH.

8 Q WAS THAT IN 1959 OR '60? IS THAT --

9 A IT WAS 1960'S.

10 Q OKAY. SO THEN JUST FOR THIS TIME FRAME I'M

11 GOING TO MOVE INTO THE TIME WHEN YOU GOT INTO THAT

12 DIVISION. BUT BEFORE YOU DID, AT SOME POINT YOU -- YOU

13 LEARNED THAT THERE WAS A SALES DIVISION THAT HANDLED THE

14 PHENOLIC MOLDING MATERIALS; IS THAT CORRECT?

15 A YES.

16 Q AND YOU CAN'T THINK OF ANY NAMES OF THE

17 INDIVIDUALS WHO WERE WORKING IN THE SALES DIVISION

18 DURING THIS TIME FRAME OF THE -- OF THE PHENOLIC MOLDING

19 MATERIALS?

20 A NO.

21 Q CAN YOU GIVE ME AN IDEA OF ABOUT HOW MANY

22 PEOPLE WORKED IN THAT SALES DIVISION DURING THAT TIME

23 FRAME?

24 A I DON'T HAVE AN EXACT FIGURE.

25 Q IN OTHER WORDS, A DOZEN, A HUNDRED -- ANY WAY

16

1 TO GIVE ME A SENSE?

2 A WELL, PEOPLE, YOU KNOW -- YOU'RE TALKING

3 SECRETARIES, SALES PEOPLE, SUPPORT GROUPS. I'M -- I'M

4 NOT -- I CAN'T GIVE YOU AN ACCURATE ANSWER ON THAT.

5 Q OKAY. AND YOU GAVE ME A LIST OF JUST THE TYPES

6 OF CUSTOMERS THAT WERE -- THAT UNION CARBIDE WAS SELLING

7 PHENOLIC MOLDINGS TO DURING THIS TIME FRAME. CAN YOU

8 TELL ME HOW UNION CARBIDE KEPT TRACK OF WHO THOSE

9 CUSTOMERS WERE?

10 A THROUGH THE ORDERS THAT CAME IN FOR THOSE

11 CUSTOMERS.

12 Q OKAY. SO IN OTHER WORDS, A PURCHASE ORDER, IF

13 THE CUSTOMER WAS ACTUALLY PURCHASING MATERIALS --

14 A YES.

15 Q -- THERE WOULD BE SOME RECORD OF THE PURCHASE

16 ITSELF?

17 A YES.

18 Q OKAY. WOULD THERE BE A SEPARATE WAY TO KEEP

19 TRACK OF WHO CUSTOMERS WERE, FOR INSTANCE, IF A CUSTOMER

20 CAME IN AND ALREADY HAD AN ACCOUNT WITH UNION CARBIDE?

21 MS. OBERG: OBJECTION. CALLS FOR SPECULATION.

22 GO AHEAD.

23 THE WITNESS: AND THEY ALREADY HAD AN ACCOUNT?

24 BY MR. JACKSON:

25 Q WELL, LET ME -- LET ME ASK IT MORE BROADLY.

17

1 OTHER THAN A PURCHASE ORDER WHICH WOULD KEEP TRACK VIA

2 RECORD OF WHAT WAS PURCHASED, WERE THERE ANY OTHER WAYS

3 TO KEEP TRACK OF WHO THE CUSTOMERS WERE FOR THE PHENOLIC

4 MOLDING MATERIALS DURING THIS TIME FRAME?

5 A EACH SALESMAN WAS ASSIGNED A TERRITORY.

6 Q AND I TAKE IT YOU DON'T KNOW THE NAMES OF THE

7 SALESMEN WHO WERE WORKING IN THE SALES DIVISION IN THIS

8 TIME FRAME? AND AGAIN, PHENOLIC MOLDING MATERIALS.

9 A YOU WANT --

10 Q THE NAMES OF ANY OF THOSE SALESMEN.

11 A SALESMEN? HARRY MC GOWAN.

12 MS. OBERG: THIS IS FOR MOLDING COMPOUNDS;

13 RIGHT?

14 THE WITNESS: YES.

15 MS. OBERG: OKAY. CAN YOU SPELL MC GOWAN,

16 PLEASE.

17 THE WITNESS: M-C-G-O-W-A-N.

18 MS. OBERG: WHO ELSE?

19 THE WITNESS: HAROLD HOLZ.

20 BY MR. JACKSON:

21 Q I'M GOING TO GUESS. H-O-L-Z?

22 A H-O-L-Z.

23 Q H-O-L-Z?

24 A YES.

25 Q OKAY. ANYONE ELSE YOU CAN THINK OF?

18

1 A NOT -- NOT AT THIS TIME, NO.

2 Q DO YOU KNOW IF EITHER MR. MC GOWAN OR MR. HOLZ

3 ARE STILL LIVING?

4 A MR. HOLZ IS. I DON'T KNOW IF MR. MC GOWAN IS.

5 Q OKAY. WHERE -- WHEN -- WHEN WAS THE LAST TIME

6 YOU HAD ANY CONTACT WITH MR. HOLZ, SPOKE TO HIM OR SAW

7 HIM, SOMETHING ALONG THOSE LINES?

8 A ABOUT A YEAR AGO.

9 Q AND WHERE WAS HE LIVING AT THAT TIME?

10 A CONNECTICUT.

11 Q DO YOU KNOW WHERE IN CONNECTICUT?

12 A NO.

13 Q AND WHEN WAS THE LAST TIME YOU SAW

14 MR. MC GOWAN?

15 A OH, 30, 40 YEARS AGO.

16 Q OKAY. SO THE SALESMEN WOULD ACTUALLY BE

17 ASSIGNED IT A TERRITORY AND WOULD DEAL WITH CUSTOMERS IN

18 PARTICULAR TERRITORIES?

19 A YES.

20 Q DO YOU KNOW IF THE SALESMEN KEPT INDEPENDENT

21 RECORDS, FOR INSTANCE, LISTS OF WHO THEIR CUSTOMERS

22 WERE?

23 A YES, THEY DID.

24 Q OKAY. WOULD THERE BE A WAY TO IDENTIFY THOSE

25 RECORDS, LIKE THE CATEGORY OF THEM? CUSTOMER LISTS,

19

1 SOMETHING ALONG THOSE LINES?

2 A THEY WOULD BE CUSTOMER REPORTS.

3 Q CUSTOMER REPORTS. AND OTHER THAN PURCHASE

4 ORDERS OR CUSTOMER REPORTS FROM THE SALESMEN, ARE THERE

5 ANY OTHER DOCUMENTS THAT YOU WOULD IDENTIFY THAT WOULD

6 IDENTIFY WHO CUSTOMERS WERE FOR PHENOLIC MOLDING

7 MATERIALS DURING THIS TIME FRAME?

8 A SHIPPING RECORDS.

9 Q OKAY. SO AFTER SOMEBODY PURCHASED MATERIALS

10 AND IT WAS SHIPPED, THERE MAY BE A RECORD KEPT OF THE

11 SHIPPING OF THE MATERIALS OUT?

12 A YES.

13 Q ANY OTHER TYPES OF RECORDS THAT YOU CAN THINK

14 OF THAT WOULD IDENTIFY WHO THE CUSTOMERS WERE?

15 A THE DEPARTMENT THAT BILLED AND COLLECTED

16 PAYMENTS. THE NAMES OF THOSE DEPARTMENTS CHANGED

17 PERIODICALLY, BUT THEY DID THE SAME THING.

18 Q OKAY. SO BILLING RECORDS --

19 A RIGHT.

20 Q -- KEPT TRACK OF GETTING PAID?

21 A YEAH.

22 Q ALL RIGHT. LET ME SEE IF I COULD ASK THIS

23 CATEGORICALLY. DO YOU KNOW IF UNION CARBIDE STILL

24 MAINTAINS BILLING RECORDS FROM THIS TIME PERIOD BETWEEN

25 1948 AND 1960?

20

1 MS. OBERG: OBJECTION. JUST TO PRESERVE THE
 2 RECORD, OVERLY BROAD, LACKS FOUNDATION.
 3 GO AHEAD IF YOU KNOW.
 4 THE WITNESS: I DON'T KNOW.
 5 BY MR. JACKSON:
 6 Q OKAY. DO YOU KNOW IF THEY STILL MAINTAIN ANY
 7 SHIPS RECORDS FROM THOSE TIME FRAMES?
 8 MS. OBERG: SAME OBJECTIONS.
 9 GO AHEAD.
 10 THE WITNESS: I DON'T KNOW.
 11 BY MR. JACKSON:
 12 Q HOW ABOUT THE CUSTOMER REPORTS? DO YOU KNOW IF
 13 THOSE ARE STILL MAINTAINED?
 14 MS. OBERG: SAME OBJECTIONS.
 15 THE WITNESS: I DON'T KNOW.
 16 MS. OBERG: WE'RE TALKING '48 TO '60; CORRECT?
 17 MR. JACKSON: RIGHT.
 18 Q AND HOW ABOUT THE PURCHASE ORDERS?
 19 MS. OBERG: SAME OBJECTIONS.
 20 THE WITNESS: I DON'T KNOW.
 21 BY MR. JACKSON:
 22 Q OKAY. OKAY. ARE YOU AWARE OF ANY RECORDS THAT
 23 UNION CARBIDE MAINTAINS THAT WOULD IDENTIFY WHO THEIR
 24 CUSTOMERS WERE FOR THEIR PHENOLIC MOLDING MATERIALS IN
 25 THIS TIME FRAME?

21

1 MS. OBERG: SAME OBJECTION.
 2 THE WITNESS: ANY RECORDS OTHER THAN WHAT I
 3 HAVE JUST GIVEN YOU?
 4 BY MR. JACKSON:
 5 Q RIGHT.
 6 A YEAH.
 7 Q IN OTHER WORDS, IS THERE SOMETHING ELSE THAT
 8 YOU WOULD THINK OF THAT WOULD SHOW WHO CUSTOMERS WERE
 9 DURING THIS TIME FRAME THAT WE HAVEN'T DISCUSSED?
 10 A MANUFACTURING WOULD KEEP SOME RECORDS.
 11 MS. OBERG: CARLO, LISTEN TO THE QUESTION.
 12 IT'S WHETHER YOU'RE AWARE OF ANY RECORDS THAT EXIST
 13 TODAY.
 14 THE WITNESS: OH, EXIST TODAY.
 15 MR. JACKSON: RIGHT.
 16 MS. OBERG: YES, IF YOU KNOW THAT.
 17 THE WITNESS: THAT EXIST TODAY, I DON'T KNOW.
 18 BY MR. JACKSON:
 19 Q YEAH. IT SOUNDS LIKE THERE WAS -- YOU WERE
 20 THINKING, STEP 1, WERE THERE ANY TYPES OF RECORDS
 21 GENERATED AT THAT TIME --
 22 A YEAH.
 23 Q -- THAT WOULD SHOW WHO CUSTOMERS WERE.
 24 A YEAH.
 25 Q AND YOU MENTIONED MANUFACTURING WOULD KEEP SOME

22

1 RECORDS. WHAT TYPES OF RECORDS ARE YOU REFERRING TO?
 2 A FORMULATIONS AND -- WITH SOME OF THE CUSTOMERS
 3 TO WHOM THEY WOULD BE SHIPPED.
 4 Q OKAY. SO IF A FORMULATION WAS DONE FOR A --
 5 WITH A PARTICULAR CUSTOMER IN MIND, IT ACTUALLY MAY SHOW
 6 UP ON THAT TYPE OF A DOCUMENT?
 7 A YES.
 8 Q OKAY. DO YOU KNOW IF FORMULATION -- RECORDS OF
 9 FORMULATIONS FROM THAT TIME FRAME WHICH MIGHT SHOW WHO
 10 THE CUSTOMERS WERE, IF THOSE STILL EXIST?
 11 A SOME DO, YES.
 12 MS. OBERG: '48 TO '60.
 13 THE WITNESS: YES, SOME DO.
 14 MS. OBERG: OKAY.
 15 BY MR. JACKSON:
 16 Q OKAY. I'M GOING TO KIND OF GO THROUGH THE SAME
 17 SET OF QUESTIONS FOR THE NEXT TIME PERIOD WHICH I'M
 18 GOING TO START AS 1960, WHEN YOU BECAME A GROUP MANAGER.
 19 AND THAT WAS IN THE PHENOLIC MOLDINGS DEPARTMENT; IS
 20 THAT RIGHT?
 21 A YES.
 22 Q OKAY.
 23 A OF R & D.
 24 Q OKAY. OF THE BAKELITE DIVISION; RIGHT?
 25 A YEAH.

23

1 Q UNTIL 1970, WHEN YOU BECAME A SENIOR GROUP
 2 MANAGER?
 3 A YES.
 4 Q OKAY. I EARLIER ASKED YOU ABOUT WHO THE
 5 CUSTOMERS WERE -- WELL, STRIKE THAT. LET'S BACK UP TO
 6 THE STEP 1. THE PRODUCTS THAT YOU TALKED ABOUT THAT
 7 UNION CARBIDE BAKELITE DIVISION WAS SELLING IN '48 TO
 8 '60, ARE THOSE THE SAME PRODUCTS THAT THEY SOLD IN 1960
 9 TO 1970 TIME FRAME?
 10 A SOME WERE, AND SOME WERE NOT.
 11 Q OKAY. WERE THEY STILL SELLING PHENOLIC MOLDING
 12 MATERIALS IN THAT TIME FRAME --
 13 A YES.
 14 Q -- 1960 TO 1970?
 15 A YES.
 16 Q OKAY. THE TYPES OF CUSTOMERS THAT THEY SOLD
 17 THOSE MATERIALS TO, ARE THOSE CUSTOMERS THE SAME AS YOU
 18 DESCRIBED EARLIER FROM THE 1948 TO 1960 TIME FRAME?
 19 A THERE WERE CHANGES.
 20 Q OKAY. JUST TELL ME GENERALLY WHAT YOU MEAN
 21 WHEN YOU SAY THERE WERE CHANGES?
 22 A WELL, SOME OF THE APPLICATIONS WERE CONVERTED
 23 TO THERMOPLASTIC MATERIALS.
 24 Q BUT THE -- SOME OF THOSE PHENOLIC MOLDING
 25 MATERIALS STILL DID HAVE ASBESTOS IN THIS TIME FRAME,

24

1 1960 TO 1970?

2 A YES, THEY DID.

3 Q AND WHO WERE THE CUSTOMERS GENERALLY OF THOSE

4 TYPES OF MATERIALS?

5 A GENERALLY ELECTRICAL PARTS MANUFACTURERS.

6 ANY -- SOME AUTOMOTIVE PARTS REQUIRED HIGH-TEMPERATURE

7 USE. POT HANDLES, OVEN PARTS, TOASTER PANELS.

8 Q ANYTHING ELSE THAT YOU WOULD ADD TO THAT LIST?

9 A MANY ELECTRICAL PARTS, BUT IT REQUIRED

10 HIGH-TEMPERATURE RESISTANCE.

11 Q AND AGAIN, THE CUSTOMERS WOULD BE THE

12 MANUFACTURERS OF THESE VARIOUS PRODUCTS?

13 A YES.

14 Q OKAY. HOW ABOUT AUTOMOTIVE PARTS DURING THIS

15 TIME FRAME BETWEEN 1960 TO 1970? WOULD YOU SAY THAT

16 MANUFACTURERS OF AUTOMOTIVE PARTS WERE CUSTOMERS OF THE

17 BAKELITE DIVISION WITH RESPECT TO PHENOLIC MOLDING

18 MATERIALS?

19 A YES.

20 Q OKAY. AND THE PROCESS OF KEEPING TRACK OF THE

21 CUSTOMERS DURING THIS TIME FRAME, WAS IT ANY DIFFERENT

22 FROM WHAT YOU DESCRIBED EARLIER?

23 A NO.

24 Q OKAY. CAN YOU THINK OF ANY INDIVIDUALS WHO

25 WERE WITH THE SALES DIVISION RESPONSIBLE FOR THE

25

1 RIGHT NOW.

2 Q OKAY. SO EACH OF THE INDIVIDUALS THAT YOU JUST

3 MENTIONED ARE PEOPLE THAT YOU REMEMBER HOLDING SOME

4 POSITION IN THE SALES DIVISION THAT WAS RESPONSIBLE FOR

5 SELLING PHENOLIC MOLDING MATERIALS IN THIS TIME FRAME,

6 1960 TO 1970?

7 A YES.

8 Q OKAY. DO YOU KNOW IF MR. NAYLOR IS STILL

9 LIVING?

10 A YES.

11 Q DO YOU KNOW WHEREABOUTS HE LIVES?

12 A NO.

13 Q OKAY. DO YOU KNOW WHAT STATE?

14 A NO.

15 Q WHEN WAS THE LAST TIME YOU HAD ANY KIND OF

16 CONTACT WITH MR. NAYLOR?

17 A I SAW HIS NAME ON AN E-MAIL JUST RECENTLY --

18 Q OKAY.

19 A -- TO AN ASSOCIATE OF MINE. HE WAS COPIED ON

20 IT.

21 Q IN OTHER WORDS, IS HE STILL EMPLOYED BY UNION

22 CARBIDE?

23 A OH, NO.

24 Q OKAY.

25 A NO.

27

1 PHENOLIC MOLDING MATERIALS IN THE 1960 TO 1970 TIME

2 FRAME?

3 A IN WHAT DEPARTMENT?

4 Q SALES DEPARTMENT THAT WOULD HAVE HANDLED THE

5 PHENOLIC MOLDING MATERIALS.

6 A THE DIRECTOR OF SALES WOULD -- THERE WERE A

7 NUMBER. JOE RODGERS. SALES MANAGER WAS CHARLIE NAYLOR.

8 Q I'M SORRY. WHAT WAS --

9 A NAYLOR, N-A-Y-L-O-R. BOB SHERMAN WAS AN

10 ASSISTANT SALES MANAGER. PETER POTTER WAS MARKETING

11 MANAGER. WALT DE FABER WAS IN THOSE DEPARTMENTS DOING A

12 VARIETY OF SALES ACTIVITIES. RAY URBAN WAS A MANAGER IN

13 THAT AREA LATER IN THE '60S.

14 Q ARE YOU SAYING IRVIN?

15 A URBAN, U-R-B-A-N. ED KRUMMEL, K-R-U-M-M-E-L.

16 Q ANYONE ELSE YOU CAN THINK OF?

17 A PARDON?

18 MS. OBERG: BRUCE, HE DIDN'T HEAR YOU. WHAT --

19 BY MR. JACKSON:

20 Q I'M SORRY. I HAVE A SOFT VOICE SOMETIMES.

21 ANYONE ELSE YOU CAN THINK OF FROM THE SALES DEPARTMENT

22 IN THIS TIME FRAME, 1960 TO 1970?

23 A THOSE WERE THE PRINCIPAL PLAYERS.

24 Q OKAY.

25 A THERE WERE OTHERS, BUT THEY DON'T COME TO MIND

26

1 Q WHEN WAS THE LAST TIME YOU SPOKE TO HIM OR SAW

2 HIM?

3 A 1960'S.

4 Q BOB SHERMAN. DO YOU KNOW IF MR. SHERMAN IS

5 STILL ALIVE?

6 A YES, HE IS.

7 Q AND DO YOU KNOW WHERE HE LIVES?

8 A NO, I DON'T.

9 Q WHEN WAS THE LAST TIME YOU SPOKE TO HIM OR SAW

10 HIM?

11 A ABOUT TWO YEARS AGO.

12 Q AT THAT TIME DO YOU KNOW WHERE HE WAS LIVING?

13 A YES.

14 Q WHERE WAS THAT?

15 A OH, I'M SORRY. YES, I DID. I CALLED HIM, BUT

16 I DON'T REMEMBER NOW THE LOCATION.

17 Q DO YOU REMEMBER THE STATE THAT HE LIVED IN?

18 A I'D HAVE TO GUESS. NO.

19 Q OKAY. HOW ABOUT --

20 MS. OBERG: DON'T GUESS.

21 THE WITNESS: NO.

22 BY MR. JACKSON:

23 Q THAT'S FINE. I DISPENSED WITH THE ADMONITIONS

24 FOR TIME'S SAKE, BUT I WOULD JUST ADD, ONE, I ONLY WANT

25 YOUR BEST ESTIMATE.

28

1 A OKAY.

2 Q AND IF YOU'RE GUESSING, LET ME KNOW THAT.

3 A YEAH.

4 Q TWO, IF YOU DON'T UNDERSTAND ONE OF MY

5 QUESTIONS, JUST LET ME KNOW, AND I'LL REPHRASE IT.

6 A SURE.

7 Q I'M GOING TO ASSUME, IF YOU ANSWERED MY

8 QUESTION, THAT YOU UNDERSTOOD IT.

9 A OKAY.

10 Q SO IF YOU DON'T, JUST LET ME KNOW.

11 A SURE.

12 Q ALL RIGHT. PETER POTTER, DO YOU KNOW IF HE'S

13 STILL ALIVE?

14 A YES, HE IS.

15 Q DO YOU KNOW WHERE MR. POTTER LIVES?

16 A IN CONNECTICUT.

17 Q DO YOU KNOW WHERE IN CONNECTICUT?

18 A NO.

19 Q DO YOU KNOW IF HE'S STILL EMPLOYED BY UNION

20 CARBIDE?

21 A NO.

22 Q NO, HE'S NOT?

23 A HE'S --

24 Q NO, HE'S NOT.

25 A NOT, NO.

29

1 Q WALT DE FABER. DO YOU KNOW IF MR. DE FABER IS

2 STILL LIVING?

3 A YES, HE IS.

4 Q AND DO YOU KNOW WHERE HE LIVES?

5 A NO, I DON'T.

6 Q WHEN WAS THE LAST TIME YOU SPOKE TO HIM?

7 A ABOUT TWO YEARS AGO.

8 Q AT THAT TIME DO YOU KNOW WHERE HE WAS LIVING?

9 A NO, I DON'T.

10 Q AND DO YOU KNOW IF HE IS STILL EMPLOYED BY

11 UNION CARBIDE?

12 A HE IS NOT.

13 Q OKAY. RAY URBAN, DO YOU KNOW IF HE IS STILL

14 LIVING?

15 A I DON'T KNOW.

16 Q WHEN WAS THE LAST TIME YOU SPOKE TO MR. URBAN?

17 A IN THE '60S.

18 Q ED KRUMMEL, DO YOU KNOW IF HE'S STILL LIVING?

19 A NO. HE'S DEAD.

20 Q DECEASED. OKAY. ALL RIGHT. SO GENERALLY YOU

21 MENTIONED THAT THE PROCESS OF KEEPING TRACK OF CUSTOMERS

22 IN THIS TIME FRAME FROM 1960 TO 1970 WAS ESSENTIALLY THE

23 SAME AS WHAT YOU'D PREVIOUSLY DESCRIBED FOR THE EARLIER

24 TIME FRAME?

25 A EXCEPT FOR THE -- YOU KNOW, THE IMPROVEMENTS

30

1 IN -- IN KEEPING RECORDS AND SO FORTH, YEAH.

2 Q OKAY.

3 A STEAMLINING THE OPERATION, YOU KNOW, IT WAS

4 BASICALLY THE SAME.

5 Q FOR EXAMPLE, ARE THERE ANY PURCHASE ORDERS THAT

6 EXIST DURING THIS TIME FRAME, IF YOU KNOW, THAT WOULD

7 IDENTIFY WHO ANY OF THE CUSTOMERS WERE OF THE PHENOLIC

8 MOLDING MATERIALS?

9 MS. OBERG: YOU'RE TALKING SPECIFICALLY ABOUT

10 PURCHASE ORDERS --

11 MR. JACKSON: RIGHT.

12 MS. OBERG: -- THAT EXIST.

13 ARE YOU AWARE OF ANY?

14 THE WITNESS: OF ANY --

15 MS. OBERG: PURCHASE ORDERS.

16 THE WITNESS: ANY SYSTEM THAT'S IN PLACE?

17 MS. OBERG: NO. ARE YOU AWARE --

18 COULD YOU ASK THE QUESTION, BRUCE.

19 THE WITNESS: YEAH.

20 BY MR. JACKSON:

21 Q IN THIS TIME FRAME, 1960 TO 1970, I TAKE IT

22 THERE WAS A SYSTEM IN PLACE WHERE THERE WOULD BE

23 PURCHASE ORDERS KEPT WHEN CUSTOMERS PURCHASED MATERIALS

24 FROM -- FROM THE BAKELITE DIVISION.

25 A YES.

31

1 Q DO YOU KNOW IF THERE ARE PURCHASE ORDERS THAT

2 STILL EXIST TODAY FOR PURCHASES MADE OF PHENOLIC MOLDING

3 MATERIALS IN 1960 TO 1970 TIME FRAME?

4 A I'VE SEEN SOME, BUT I DON'T KNOW HOW OLD THEY

5 WERE. I -- I'VE SEEN SOME.

6 Q OKAY. HOW ABOUT SHIPPING RECORDS? DO YOU KNOW

7 IF THERE ARE SHIPPING RECORDS THAT EXIST TODAY THAT SHOW

8 SHIPMENTS OF PHENOLIC MOLDING MATERIALS TO CUSTOMERS?

9 A THE SALES RECORDS WOULD SHOW THAT, YES, AND

10 THEY EXIST.

11 MS. OBERG: SHIPPING RECORDS?

12 THE WITNESS: WOULD SHOW THAT THE CUSTOMER

13 PURCHASED.

14 BY MR. JACKSON:

15 Q OKAY.

16 A I'M -- IS THAT WHAT YOU ARE TALKING ABOUT?

17 MS. OBERG: OKAY. SO TO BE SPECIFIC, HE'S

18 ASKING YOU TO BREAK DOWN THE KIND OF RECORDS --

19 THE WITNESS: YEAH.

20 MS. OBERG: -- AND TELL US WHETHER OR NOT THOSE

21 RECORDS EXIST TODAY. SPECIFICALLY, DO SHIPPING RECORDS

22 EXIST --

23 THE WITNESS: SHIP --

24 MS. OBERG: -- FOR THAT TIME PERIOD?

25 THE WITNESS: SHIPPING RECORDS, I DON'T KNOW.

32

1 BY MR. JACKSON:

2 Q OKAY. AND IN RESPONDING TO MY QUESTION, YOU

3 HAD KIND OF DESCRIBED A DIFFERENT CATEGORY OF DOCUMENTS,

4 AND YOU SAID SALES RECORDS. WHAT DO YOU MEAN WHEN YOU

5 SAY SALES RECORDS?

6 A RECORDS OF HOW MUCH MATERIAL WAS SOLD TO A

7 PARTICULAR CUSTOMER IN EACH MONTH.

8 Q OKAY.

9 A NOW, I'M SORRY. THAT'S WHAT I WAS THINKING IN

10 TERMS OF SHIPPING RECORDS.

11 Q ALL RIGHT. SO JUST TO UNDERSTAND WHAT THOSE

12 TYPES OF RECORDS ARE: FOR CUSTOMERS WHO PURCHASED

13 PHENOLIC MOLDING MATERIALS FROM UNION CARBIDE IN THIS

14 TIME FRAME, UNION CARBIDE KEPT SALES RECORDS WHICH WOULD

15 SHOW HOW MUCH EACH MONTH A PARTICULAR CUSTOMER WAS

16 PURCHASING?

17 A YES.

18 Q OKAY. AND THOSE SALES RECORDS STILL EXIST

19 TODAY, TO YOUR KNOWLEDGE, AT LEAST FOR SOME TIME PERIOD?

20 A YES.

21 Q CAN YOU TELL ME FOR WHAT TIME PERIOD THEY STILL

22 EXIST TODAY, IN OTHER WORDS, GOING HOW FAR BACK?

23 A OH, I'VE SEEN SOME BACK INTO THE '60S.

24 Q AND CAN YOU TELL ME IF UNION CARBIDE CAN -- HAS

25 COMPLETE SETS OF SALES RECORDS FOR THEIR PHENOLIC

33

1 MOLDING MATERIALS GOING THAT FAR BACK?

2 MS. OBERG: IF -- IF YOU KNOW.

3 BY MR. JACKSON:

4 Q IN OTHER WORDS, YOU SAID YOU'VE SEEN SOME.

5 MS. OBERG: YEAH.

6 BY MR. JACKSON:

7 Q IS THERE ANY WAY TO TELL ME WHETHER OR NOT THAT

8 WOULD BE A COMPLETE SET OF THE SALES RECORDS?

9 MS. OBERG: I'M JUST --

10 MR. JACKSON: THAT'S ALL RIGHT. I JUST WANT TO

11 MAKE SURE IT'S ON THE RECORD. I KNOW YOU HAVE AN

12 OBJECTION.

13 Q I JUST WANT TO KNOW IF, WHEN YOU SAY YOU'VE

14 SEEN SOME, YOU HAVE ANY KNOWLEDGE IF THIS IS A COMPLETE

15 SET OF SALES RECORDS FOR PHENOLIC RESIN MATERIALS GOING

16 THAT FAR BACK.

17 MS. OBERG: PHENOLIC RESINS OR PHENOLIC MOLDING

18 COMPOUNDS? SORRY. IT'S GOT TO BE PRECISE.

19 MR. JACKSON: PHENOLIC MOLDING COMPOUNDS.

20 THE WITNESS: THEY APPEARED COMPLETE TO ME.

21 MS. OBERG: NOW I'M GOING TO PUT IN A BELATED

22 OBJECTION THAT IT CALLS FOR SPECULATION.

23 DO YOU HAVE PERSONAL KNOWLEDGE OF WHETHER OR

24 NOT RECORDS THAT YOU HAVE SEEN ARE COMPLETE? DO YOU

25 KNOW, CARLO? DO YOU KNOW THAT THEY'RE COMPLETE?

34

1 THE WITNESS: I CAN'T SAY WITH A HUNDRED

2 PERCENT CERTAINTY --

3 MS. OBERG: OKAY.

4 THE WITNESS: -- IF THEY ARE COMPLETE.

5 MS. OBERG: OKAY.

6 BY MR. JACKSON:

7 Q ALL RIGHT. SO I JUST WANT TO KNOW, THEN, WHEN

8 YOU SAY THEY APPEARED -- APPEAR COMPLETE, WHAT DO YOU --

9 WHY DO YOU SAY THAT?

10 A I DIDN'T SEE ANYTHING THAT WAS MISSING, A

11 MISSING PAGE OR -- THAT WOULD LEAD ME TO BELIEVE THAT

12 THERE WAS MORE INFORMATION THAT HAD BEEN LOST.

13 Q OKAY. BUT YOU CAN'T SAY --

14 A BUT I CAN'T --

15 Q I'M SORRY.

16 A I CAN'T SAY, YOU KNOW, "I'VE SEEN ALL THE

17 RECORDS. THEY'RE A HUNDRED PERCENT COMPLETE."

18 MS. OBERG: RIGHT.

19 BY MR. JACKSON:

20 Q I UNDERSTAND.

21 A I MEAN THAT WAS NOT MY DEPARTMENT.

22 Q OKAY.

23 A I WAS IN R & D.

24 Q OKAY. I UNDERSTAND. AND SO YOU CAN'T SAY WITH

25 100 PERCENT CERTAINTY. YOU'RE JUST DESCRIBING WHAT YOUR

35

1 OBSERVATION WAS.

2 A THAT'S RIGHT.

3 Q BUT IN ANY EVENT, THE TIME FRAME THAT THESE

4 DOCUMENTS DATE BACK WOULD BE SOMETIME IN THE '60S.

5 A YES.

6 Q WOULD THAT BE EARLY '60S, MID '60S, LATE '60S?

7 ANY WAY TO GIVE ME A SENSE?

8 A I HAVEN'T SEEN ALL OF THEM, BUT I AM AWARE THAT

9 THEY GO BACK AS FAR AS THE '60 -- 1960.

10 Q NOW, EARLIER YOU HAD SPOKEN THAT MANUFACTURING

11 WOULD KEEP -- KEEP SOME RECORDS THAT -- THAT MAY SHOW

12 WHO A CUSTOMER IS OF A PHENOLIC MOLDING MATERIAL;

13 CORRECT?

14 A YES.

15 Q I TAKE IT THAT PROCESS CONTINUED BETWEEN THE

16 1960 AND 1970 --

17 A YES.

18 Q -- PERIOD. DO YOU KNOW IF THERE ARE ANY

19 RECORDS FROM THE MANUFACTURING THAT WOULD SHOW WHO

20 CLIENTS WERE OR CUSTOMERS WERE OF PHENOLIC MOLDING

21 MATERIALS?

22 A YES.

23 Q OKAY. AND DO YOU KNOW HOW FAR BACK THOSE

24 RECORDS GO?

25 A I'VE SEEN SOME RECORDS GO BACK AS FAR AS

36

1 1930'S.

2 Q OKAY. AND ARE THEY -- TO WHAT EXTENT ARE THEY

3 COMPLETE RECORDS DATING THAT FAR BACK?

4 MS. OBERG: OBJECTION. CALLS FOR SPECULATION.

5 LACKS FOUNDATION. OVERLY BROAD. THAT REALLY DOES GO

6 WAY BEYOND THIS NOTICE.

7 BY MR. JACKSON:

8 Q WELL, I WANT -- I'M GOING TO, FIRST OF ALL,

9 TELL YOU WHERE I'M GOING. AT SOME POINT I WANT TO ASK

10 YOU WHAT YOU'VE DONE TO BECOME KNOWLEDGEABLE, AND PART

11 OF THAT IS GOING TO BE WHAT RECORDS HAVE YOU LOOKED AT

12 AND ARE THERE RECORDS AVAILABLE THAT YOU DID OR DID NOT

13 LOOK AT.

14 SO ONE OF THE THINGS I'M JUST TRYING TO KIND OF

15 FIGURE OUT NOW IS WHAT RECORDS ARE THERE THAT EXIST THAT

16 WOULD HELP YOU IDENTIFY WHO CUSTOMERS WERE OF THESE

17 TYPES OF MATERIALS, PHENOLIC MOLDING MATERIALS. AND ONE

18 OF THE THINGS THAT YOU MENTIONED IS THAT MANUFACTURING

19 KEPT SOME OF THESE RECORDS, AND I JUST WANT TO GET A

20 SENSE OF HOW COMPLETE THOSE RECORDS WOULD BE, IF YOU

21 KNOW.

22 A THOSE WOULD NOT BE COMPLETE.

23 Q OKAY. ARE THE BEST RECORDS TO -- TO CONSIDER

24 IN TERMS OF FIGURING OUT WHO CUSTOMERS WERE DURING THIS

25 TIME FRAME THE SALES RECORDS THAT WE'VE TALKED ABOUT --

37

1 A YES.

2 Q -- THAT YOU MENTIONED?

3 OKAY. ARE THERE ANY OTHER KINDS OF RECORDS

4 THAT -- THAT STILL EXIST TODAY, AS FAR AS YOU KNOW, THAT

5 WOULD IDENTIFY WHO CUSTOMERS WERE OF THE PHENOLIC

6 MOLDING MATERIALS IN THIS TIME FRAME, 1960 TO 1970,

7 OTHER THAN WHAT YOU'VE ALREADY TOLD ME ABOUT?

8 A NO.

9 Q OKAY. I THINK THAT MAKES IT EASIER.

10 A LET ME BACK UP ON THAT A MINUTE. NOW, YOU'RE

11 TALKING ABOUT LISTS. THERE'S CORRESPONDENCE AND THAT

12 SORT OF THING OR --

13 Q HERE -- TO SIMPLIFY THIS, IF YOU WERE

14 INTERESTED IN DETERMINING WHO THE CUSTOMERS WERE FOR

15 PHENOLIC MOLDING MATERIALS IN THE 1960 TO 1970 TIME

16 FRAME, ARE THERE ANY OTHER TYPES OF RECORDS THAT YOU

17 COULD LOOK AT WHICH EXIST TODAY OTHER THAN WHAT WE'VE

18 ALREADY SPOKEN ABOUT?

19 A FIRST PLACE I WOULD GO IS THE SALES RECORDS.

20 Q OKAY. OKAY. NOW, IN THE -- IN 1970 YOU BECAME

21 A SENIOR -- WELL, 1970, WHAT WAS YOUR JOB POSITION?

22 MS. OBERG: 1970, WHAT WAS YOUR JOB?

23 THE WITNESS: IT STAYED THE SAME.

24 BY MR. JACKSON:

25 Q OKAY. DID YOU --

38

1 A THAT WAS JUST A GRADE PROMOTION.

2 Q YEAH. THEY TOLD ME THAT WHEN I BECAME A SENIOR

3 ATTORNEY.

4 A THEY HAVE THAT IN LAW.

5 Q IT'S THE SAME. SO YOUR RESPONSIBILITIES AND

6 YOUR POSITION WERE THE SAME AS GROUP MANAGER. YOU WERE

7 SIMPLY REFERRED TO AS A SENIOR GROUP MANAGER AT THAT

8 TIME?

9 A (NO AUDIBLE RESPONSE).

10 Q OKAY. AND AT SOME POINT THE BAKELITE DIVISION

11 CEASED TO EXIST; IS THAT CORRECT?

12 A WHAT DO YOU MEAN BY "CEASED TO EXIST"?

13 Q HOW ABOUT THIS: HOW LONG DID YOU REMAIN

14 WORKING IN THE BAKELITE DIVISION OF UNION CARBIDE?

15 A IT WAS CONSIDERED -- EVEN THE THERMOPLASTIC

16 AREA WAS CONSIDERED PART OF THE BAKELITE DIVISION.

17 Q OKAY. AND HOW LONG DID YOU STAY WITH THE

18 BAKELITE DIVISION, GIVEN THAT?

19 A THE BAKELITE DIVISION AT SOME POINT JUST

20 BECAME -- IT WAS A DIVISION OF UNION CARBIDE. THERE

21 WERE ORGANIZATIONAL CHANGES THAT OCCURRED DURING THE

22 '60S WHERE UNION CARBIDE BECAME THE PREDOMINANT WAY OF

23 REFERRING TO THE COMPANY RATHER THAN CONTINUING AS THE

24 BAKELITE DIVISION.

25 IT NO LONGER WAS CALLED A DIVISION, AND I -- I

39

1 DON'T RECALL ALL THE DETAILS AS TO HOW THESE NAME

2 CHANGES TOOK PLACE AND -- AND LEGALLY WHAT THE COMPANY

3 BECAME.

4 Q OKAY. MAYBE I COULD ASK IT THIS WAY. AS OF

5 1970, WAS UNION CARBIDE THROUGH THEIR BAKELITE DIVISION

6 STILL SELLING PHENOLIC MOLDING MATERIALS?

7 A YES.

8 Q AND SOME OF THOSE MATERIALS STILL HAD ASBESTOS

9 AS A COMPONENT OF THEM?

10 A IN THE 1970'S?

11 MS. OBERG: NINETEEN --

12 BY MR. JACKSON:

13 Q AS OF 1970. I'M GOING TO ASK YOU WHEN THAT

14 STOPPED.

15 A OKAY.

16 Q THE STARTING POINT FOR THIS TIME FRAME WOULD BE

17 1970.

18 A YES.

19 Q WHEN DID THAT -- HOW LONG DID THAT CONTINUE?

20 A WE WENT OUT OF THE BUSINESS IN 1975.

21 Q OKAY.

22 MS. OBERG: NOW --

23 BY MR. JACKSON:

24 Q THAT'S WHAT I'M LOOKING FOR.

25 MS. OBERG: NOW, WAIT A SECOND. OKAY.

40

1 MR. JACKSON: YOU WANT ME TO ASK THE SAME
 2 QUESTION --
 3 MS. OBERG: YOU ASK THE QUESTION. GO AHEAD.
 4 MR. JACKSON: -- JUST TO SEE IF YOU HAVE
 5 ANYTHING TO -- ANY EXPLANATION TO ADD TO THIS?
 6 Q HOW LONG DID UNION CARBIDE THROUGH THEIR
 7 BAKELITE DIVISION CONTINUE TO SELL PHENOLIC MOLDING
 8 MATERIALS THAT HAD ASBESTOS IN THEM, IF YOU KNOW?
 9 A UP UNTIL 1975 BUT IN REDUCED QUANTITIES.
 10 Q OKAY. BUT IT WAS AS -- AS FAR AS YOU KNOW,
 11 THEY LAST SOLD THOSE TYPES OF MATERIALS AS OF 1975?
 12 A YES.
 13 Q OKAY. AND IN THE 1970 TO 1975 TIME FRAME, WERE
 14 THE CUSTOMERS OF THOSE MATERIALS ANY DIFFERENT THAN WHAT
 15 YOU'VE DESCRIBED ALREADY FOR ME?
 16 A YES, BECAUSE THE APPLICATIONS CHANGED.
 17 Q OKAY. HOW SO?
 18 A THE MORE PHENOLIC -- MORE PARTS THAT HAD BEEN
 19 MADE OUT OF PHENOLIC MOLDING MATERIALS WERE BEING
 20 CONVERTED OVER TO HIGH-PERFORMANCE THERMOPLASTICS.
 21 Q OKAY. BUT AS FAR AS THE PHENOLIC MOLDING
 22 MATERIALS THAT STILL HAD ASBESTOS AS A COMPONENT, WHO
 23 WERE THE CUSTOMERS GENERALLY OF THOSE MATERIALS IN THIS
 24 '70 TO '75 TIME FRAME?
 25 A THOSE THAT STILL REQUIRED PHENOLIC MOLDING

41

1 MATERIALS WOULD HAVE BEEN SIMILAR TO THE ONES THAT WE
 2 HAD IN THE '60S.
 3 Q OKAY. WOULD THEY STILL INCLUDE MANUFACTURERS
 4 OF VARIOUS AUTOMOTIVE PARTS?
 5 A YES.
 6 Q AND IN TERMS OF KEEPING TRACK OF CUSTOMERS IN
 7 THIS TIME FRAME, WAS IT ANY DIFFERENT THAN WHAT YOU'VE
 8 ALREADY DESCRIBED FOR THE PREVIOUS TIME FRAMES?
 9 A COMPUTERIZATION TOOK PLACE IN THE '60S AND
 10 CONTINUED TO EVOLVE INTO THE '70S.
 11 Q OKAY. BUT IN TERMS OF THE TYPES OF RECORDS
 12 THAT WOULD EXIST TODAY THAT YOU COULD -- THAT WOULD
 13 IDENTIFY CUSTOMERS OF THE PHENOLIC MOLDING MATERIALS
 14 THAT HAD ASBESTOS IN THEM UP UNTIL '75, ARE THOSE TYPES
 15 OF RECORDS THE SAME AS WHAT YOU'VE ALREADY DESCRIBED?
 16 A YES.
 17 Q SO THE BEST RECORDS TO LOOK FOR WOULD BE THE
 18 SALES RECORDS?
 19 A YES.
 20 Q ANY OTHER TYPES OF RECORDS ASIDE FROM THE SALES
 21 RECORDS THAT YOU'RE AWARE OF THAT EXIST TODAY THAT YOU
 22 COULD REFER TO TO DETERMINE WHO THE CUSTOMERS WERE OF
 23 THE PHENOLIC MOLDING MATERIALS IN THIS TIME FRAME, '70
 24 TO '75?
 25 A ONLY THE ONES I'VE ALREADY GIVEN YOU.

42

1 Q OKAY. AND IN TERMS OF THE NAMES OF ANY OF THE
 2 PERSONS THAT WERE INVOLVED WITH THE SALES DEPARTMENT IN
 3 THIS TIME FRAME THAT WOULD HAVE BEEN RESPONSIBLE FOR
 4 SALE OF THESE PARTICULAR KINDS OF PRODUCTS, PHENOLIC
 5 MOLDING MATERIALS, ARE THERE ANY NAMES OTHER THAN
 6 WHAT -- THE GENTLEMEN NAMES -- OTHER THAN WHAT THE NAMES
 7 YOU'VE ALREADY GIVEN ME?
 8 A THERE WERE CHANGES IN THE SALES DEPARTMENT THAT
 9 WERE MADE IN THAT PERIOD, BUT I DON'T RECALL THE -- THE
 10 NAMES OF THE NEW PEOPLE THAT CAME IN.
 11 Q OKAY. IN OTHER WORDS, ALL THE PEOPLE THAT YOU
 12 CAN THINK OF THAT HAD A POSITION IN THE SALES DEPARTMENT
 13 AS OF, SAY, THE 1970'S, YOU'VE ALREADY GIVEN ME THOSE
 14 NAMES?
 15 A YES.
 16 Q BEFORE YOUR DEPOSITION TODAY, DID YOU MAKE ANY
 17 ATTEMPT TO DETERMINE WHETHER OR NOT UNION CARBIDE
 18 THROUGH THE BAKELITE DIVISION WAS SELLING ANY PHENOLIC
 19 MOLDING MATERIALS TO BENDIX CORPORATION IN PARTICULAR?
 20 A YES.
 21 Q IN ORDER TO MAKE THAT KIND OF A -- TO MAKE
 22 YOURSELF KNOWLEDGEABLE ON THAT SUBJECT COULD YOU JUST
 23 DESCRIBE FOR ME WHAT YOU DID?
 24 MS. OBERG: I'M GOING TO JUST MAKE A STATEMENT
 25 WHICH IS NOT YET A FORMAL OBJECTION: THAT MR. MARTINO'S

43

1 BEEN PRODUCED HERE NOT AS A CUSTODIAN OF RECORDS BUT AS
 2 A PERSON MOST KNOWLEDGEABLE. UNION CARBIDE
 3 ACKNOWLEDGES ITS OBLIGATION TO EDUCATE A WITNESS INSOFAR
 4 AS PERSONAL KNOWLEDGE DOESN'T EXIST ABOUT AREAS IN A
 5 DEPOSITION NOTICE THAT ARE APPROPRIATE. THAT SAME
 6 PROCEDURE'S BEEN FOLLOWED IN THIS CASE.
 7 MY CAUTIONARY STATEMENT IS THAT IT MAY BECOME
 8 QUICKLY NECESSARY FOR ME TO ASSERT AN ATTORNEY-CLIENT,
 9 ATTORNEY WORK PRODUCT PRIVILEGE OBJECTION HERE, AND I
 10 WOULD CAUTION THE WITNESS NOT TO REVEAL ANY
 11 COMMUNICATIONS WITH COUNSEL.
 12 HOWEVER, I RECOGNIZE THAT YOU ARE ENTITLED TO
 13 KNOW THE SCOPE OF ANY INQUIRY THAT WAS DONE IN ORDER TO
 14 RESPOND TO THIS DEPOSITION NOTICE. SO LET'S PROCEED
 15 BEST WE CAN STEP BY STEP.
 16 JUST TO -- TO -- DO YOU HAVE THE QUESTION IN
 17 MIND?
 18 THE WITNESS: LET'S REPEAT IT TO MAKE SURE I
 19 UNDERSTAND IT.
 20 MS. OBERG: OKAY. ALL RIGHT.
 21 BY MR. JACKSON:
 22 Q AND I'LL PHRASE IT THIS WAY, MR. MARTINO,
 23 BECAUSE I ALSO DON'T NEED TO INQUIRE ABOUT CONVERSATIONS
 24 YOU'VE HAD WITH COUNSEL. OKAY? OR COMMUNICATIONS
 25 YOU'VE HAD WITH COUNSEL.

44

1 SO ASIDE FROM THOSE KINDS OF COMMUNICATIONS,
2 WHAT I'D LIKE TO KNOW IS: WHAT HAVE YOU DONE TO MAKE
3 YOURSELF KNOWLEDGEABLE ON THE SUBJECT OF WHETHER OR NOT
4 UNION CARBIDE, THROUGH THEIR BAKELITE DIVISION, EVER
5 SOLD ANY PHENOLIC MOLDING MATERIALS TO BENDIX
6 CORPORATION IN PARTICULAR?
7 A DURING WHAT PERIOD OF TIME?
8 Q WELL, WE CAN BREAK IT DOWN LIKE I DID EARLIER.
9 AND ASK YOU: DID YOU MAKE YOURSELF KNOWLEDGEABLE TO
10 DETERMINE WHETHER THEY SOLD PHENOLIC MOLDING MATERIALS
11 TO BENDIX CORPORATION IN THE 1948 TO 1960 TIME FRAME?
12 A NO.
13 Q OKAY. 1960 TO 1970 TIME FRAME?
14 A LATE '60S AND EARLY --
15 MS. OBERG: OKAY. THE QUESTION IS -- LISTEN TO
16 THE QUESTION, PLEASE.
17 THE WITNESS: YEAH.
18 BY MR. JACKSON:
19 Q I'M AT STEP 1. I'M GOING TO ASK YOU IN A
20 MOMENT WHAT YOUR UNDERSTANDING IS.
21 A UH-HUH.
22 Q WHAT I WANT TO KNOW IS WHAT YOU DID TO FIGURE
23 THAT OUT. AND IF IT'S EASIER FOR YOU, I COULD BREAK IT
24 DOWN, MEANING: DID YOU GO BACK AND REVIEW SALES
25 RECORDS?

45

1 A YES, I DID.
2 Q OKAY. OKAY. AND WHAT SALES RECORDS DID YOU
3 REVIEW TO TRY AND DETERMINE IF UNION CARBIDE -- EVERY
4 TIME I ASK THIS QUESTION IT'S VERY WORDY. START OVER.
5 WHAT SALES RECORDS DID YOU REVIEW TO DETERMINE
6 IF UNION CARBIDE THROUGH THEIR BAKELITE DIVISION SOLD
7 PHENOLIC MOLDING MATERIALS TO BENDIX CORPORATION?
8 A WHAT SALES RECORDS?
9 Q RIGHT.
10 A WELL, THE SALES RECORDS. THERE ONLY WAS ONE.
11 Q OKAY. SALES RECORDS, IN OTHER WORDS, GOING HOW
12 FAR BACK? AS FAR BACK AS THEY WERE KEPT?
13 A AS FAR BACK AS THE LATE '60S, AS I RECALL.
14 Q OKAY. OKAY.
15 A YEAH. IT WAS THE VERY LATE '60S, YOU KNOW.
16 Q ALL RIGHT. SO YOU LOOKED AT SALES RECORDS
17 GOING BACK TO THE LATE '60S. ARE THERE ANY OTHER KINDS
18 OF RECORDS YOU LOOKED AT TO FIGURE OUT IF UNION CARBIDE
19 EVER SOLD PHENOLIC MOLDING MATERIALS TO BENDIX
20 CORPORATION?
21 A I SAW SOME FORMULATION SHEETS THAT REFERRED TO
22 BENDIX.
23 Q ARE THESE THE FORMULATION SHEETS THAT WOULD
24 FALL UNDER THE CATEGORY THAT YOU TALKED ABOUT EARLIER OF
25 THE KINDS OF RECORDS THAT WOULD BE KEPT BY

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1 MANUFACTURING?
2 A YES.
3 Q OKAY. ALL RIGHT. AND AS FAR AS FORMULATION
4 SHEETS THAT YOU LOOKED AT, CAN YOU TELL ME HOW FAR BACK
5 DATEWISE THAT THOSE FORMULATION SHEETS WERE? THAT'S AN
6 AWFUL QUESTION.
7 A LATE -- LATE '60S.
8 Q OKAY. SO YOU LOOKED THROUGH SALES RECORDS.
9 YOU LOOKED THROUGH FORMULATION SHEETS. ANY OTHER KINDS
10 OF DOCUMENTS YOU LOOKED AT ON THIS PARTICULAR SUBJECT OF
11 WHETHER OR NOT UNION CARBIDE SOLD PHENOLIC MOLDING
12 MATERIALS TO BENDIX?
13 A THAT WAS PRIMARILY IT.
14 Q OKAY. NOW, OTHER THAN SPEAKING TO COUNSEL FOR
15 UNION CARBIDE, WAS THERE ANYONE ELSE THAT YOU THOUGHT TO
16 CONTACT AND IN FACT DID CONTACT TO SEE IF -- IF THEY HAD
17 KNOWLEDGE OF WHETHER OR NOT UNION CARBIDE SOLD TO
18 BENDIX?
19 A NO.
20 Q OKAY. THAT WAS A COMPOUND QUESTION. SO YOU
21 DIDN'T TALK TO ANYBODY ELSE ASIDE FROM COUNSEL?
22 A THAT'S CORRECT.
23 Q IS THERE ANYONE THAT YOU CAN THINK OF THAT
24 WOULD ACTUALLY HAVE PERSONAL KNOWLEDGE OF WHETHER OR NOT
25 UNION CARBIDE SOLD BAKELITE DIVISION -- HOW ABOUT THIS.

47

1 EVERY TIME I ASK YOU ABOUT UNION CARBIDE SELLING TO
2 BENDIX, SO WE DON'T HAVE AN UNCLEAR RECORD, I'M ASKING
3 ABOUT PHENOLIC MOLDING MATERIALS THROUGH THE BAKELITE
4 DIVISION SO IT DOESN'T GET SO WORDY.
5 MS. OBERG: YOU KNOW, BRUCE, I AM SO SORRY. I
6 DON'T MIND THE WORDY QUESTIONS. I'D RATHER IT BE
7 PRECISE.
8 MR. JACKSON: OKAY.
9 MS. OBERG: YOU KNOW, THIS TRANSCRIPT --
10 MR. JACKSON: NO, I UNDERSTAND.
11 MS. OBERG: YOU AND I UNDERSTAND EACH OTHER,
12 BUT IF YOU DON'T MIND, I APPRECIATE THE STRUGGLE, BUT
13 LET'S BE PRECISE.
14 MR. JACKSON: ALL RIGHT. OKAY. IF YOU NEED ME
15 TO READ SOMETHING BACK BECAUSE OF THE WORDY QUESTIONS,
16 WE CAN DO THAT.
17 MS. OBERG: THAT'S FINE.
18 BY MR. JACKSON:
19 Q CAN YOU THINK OF ANYBODY ASIDE FROM COUNSEL
20 THAT YOU COULD SPEAK TO THAT WOULD HAVE PERSONAL
21 KNOWLEDGE OF WHETHER OR NOT UNION CARBIDE THROUGH THEIR
22 BAKELITE DIVISION SOLD PHENOLIC MOLDING MATERIALS TO
23 BENDIX CORPORATION?
24 A PETER POTTER AND DOUG -- DOUG FASSETT AND THE
25 SALESMAN FOR THAT PARTICULAR TERRITORY, WHO I DON'T

48

1 KNOW.

2 Q WHO WAS DOUG FASSETT? I DON'T THINK YOU

3 MENTIONED HIM ALREADY.

4 A HE WORKED FOR ME.

5 Q AND HIS POSITION WITH THE COMPANY WHEN HE

6 WORKED FOR YOU?

7 A HE WAS A ENGINEER.

8 Q OKAY. AND DO YOU KNOW JUST OFFHAND WHAT YEARS

9 HE WAS WITH THE COMPANY APPROXIMATELY?

10 A DURING THE '60S IS WHAT IT WAS, BUT HE

11 TRANSFERRED, AND I DON'T REMEMBER THE -- THE YEAR THAT

12 HE TRANSFERRED TO ANOTHER DIVISION.

13 Q OKAY. AND DOUG FASSETT LIVES WHERE?

14 A I DON'T KNOW.

15 Q IS HE STILL LIVING?

16 A I DON'T KNOW.

17 Q WHEN DID YOU LAST SPEAK TO MR. FASSETT?

18 A IN THE '60S WHEN HE LEFT.

19 Q ALL RIGHT. SO OTHER THAN CONVERSATIONS WITH

20 ATTORNEYS WHICH I'M NOT GOING TO ASK YOU ABOUT AND

21 REVIEWING SALES RECORDS AND FORMULATION SHEETS, IS THERE

22 ANYTHING ELSE YOU DID TO MAKE YOURSELF KNOWLEDGEABLE OF

23 WHETHER OR NOT UNION CARBIDE SOLD PHENOLIC MOLDING

24 MATERIALS THROUGH ITS BAKELITE DIVISION TO BENDIX

25 CORPORATION?

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1 A NO.

2 Q OKAY.

3 MS. OBERG: LET'S GO OFF THE RECORD FOR JUST A

4 SECOND.

5 MR. JACKSON: SURE.

6 (DISCUSSION HELD OFF THE RECORD.)

7 BY MR. JACKSON:

8 Q OKAY. SO YOU'VE -- YOU'VE KIND OF OUTLINED

9 WHAT YOU DID TO MAKE YOURSELF KNOWLEDGEABLE ON THIS

10 SUBJECT. WHAT I WANT TO KNOW IS WHAT YOU FOUND OUT, AND

11 MY QUESTION FOR YOU IS: DID UNION CARBIDE THROUGH THEIR

12 BAKELITE DIVISION SELL PHENOLIC MOLDING MATERIALS TO

13 BENDIX CORPORATION AT ANY TIME BETWEEN 1948 AND THE MID

14 1970'S?

15 A THE RECORDS THAT I REVIEWED SHOW THAT WE SOLD

16 SOME WHAT I WOULD CONSIDER SAMPLE QUANTITIES OF PHENOLIC

17 MOLDING MATERIALS.

18 Q OKAY. DURING WHAT TIME FRAME?

19 A THIS WAS FROM THE -- THE '70S, THE '70S AND

20 POSSIBLY VERY LATE '60S.

21 Q OKAY. SO LET ME SEE IF I CAN JUST

22 UNDERSTAND --

23 A YEAH. I'M NOT CERTAIN ABOUT THE '69, BUT

24 CERTAINLY THE '70S.

25 Q OKAY. BUT WHEN YOU SAY THE RECORDS THAT YOU

50

1 REVIEWED --

2 A YEAH.

3 Q -- SHOWED THAT UNION CARBIDE SOLD SAMPLE

4 QUANTITIES OF PHENOLIC MOLDING MATERIALS TO BENDIX

5 CORPORATION --

6 A UH-HUH.

7 Q -- THE EARLIEST RECORDS WHICH WOULD REFER TO

8 THAT --

9 A SALES RECORD.

10 Q -- THE EARLIEST SALES RECORDS WHICH WOULD

11 INDICATE THAT WOULD BE THE LATE '60S?

12 A YEAH. I'M NOT CERTAIN ABOUT '69, BUT THE '70S

13 I AM.

14 Q OKAY. AND THE LATEST RECORDS WHICH WOULD

15 INDICATE THAT WOULD BE APPROXIMATELY WHEN?

16 A THE LATEST, '74.

17 Q ALL RIGHT. SO THE TIME FRAME AT LEAST FROM

18 WHAT YOU'VE REVIEWED OF THE SALES RECORDS WHICH WOULD

19 INDICATE THAT PHENOLIC MOLDING MATERIALS WERE BEING SOLD

20 IN SAMPLE QUANTITIES TO BENDIX CORPORATION WOULD BE

21 APPROXIMATELY '69 --

22 A THAT'S RIGHT.

23 Q -- UNTIL APPROXIMATELY '74?

24 A RIGHT.

25 Q OKAY. AND IS THERE A WAY, WHEN YOU SAY "SAMPLE

51

1 QUANTITIES," TO TELL ME HOW MUCH PHENOLIC MOLDING

2 MATERIALS WAS SOLD TO BENDIX DURING THIS TIME FRAME?

3 A THE SAMPLES WERE 300 POUNDS ON A SIZE, AND I

4 RECALL THOUSAND-POUND QUANTITY.

5 Q OKAY. AND WHEN YOU SAY 300-POUND SIZE, YOU'RE

6 TALKING ABOUT ONE SHIPMENT OF PHENOLIC MOLDING MATERIALS

7 THAT WERE APPROXIMATELY 300 POUNDS?

8 A YES.

9 Q OKAY. AND ANOTHER SHIPMENT OF PHENOLIC MOLDING

10 MATERIALS OF APPROXIMATELY 1,000 POUNDS?

11 A YES.

12 Q OKAY.

13 A THERE WERE MORE THAN ONE OF EACH OF THOSE AT

14 DIFFERENT TIMES.

15 Q CAN YOU ESTIMATE FOR ME THE NUMBER OF SALES

16 RECORDS YOU SAW WHICH SHOWED A SALE OF PHENOLIC MOLDING

17 MATERIALS TO BENDIX CORPORATION?

18 A ABOUT FOUR. I'M NOT TALKING PAGES. FOUR

19 YEARS.

20 Q BUT I GUESS WHAT I'M GETTING AT IS: IN THIS

21 TIME FRAME OF THIS FOUR-YEAR SPAN IS THERE A WAY FOR ME

22 TO ESTIMATE HOW MUCH PHENOLIC MOLDING MATERIALS WERE

23 SOLD FROM UNION CARBIDE'S BAKELITE DIVISION TO BENDIX?

24 MS. OBERG: IN POUNDS?

25 BY MR. JACKSON:

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1 Q YEAH. AND IN ANY OTHER WAY TO GIVE ME AN
2 ESTIMATE OF QUANTITY.
3 A I WOULD JUST ADD UP WHAT'S ON THOSE RECORDS.
4 Q OKAY.
5 A I DIDN'T DO THAT.
6 Q ALL RIGHT. BUT JUST -- I WASN'T SURE I
7 UNDERSTOOD YOUR PREVIOUS TESTIMONY. I ASKED YOU THE
8 NUMBER OF -- OF RECORDS THAT EXISTED, AND YOU SAID
9 APPROXIMATELY FOUR, AND THEN YOU SAID THAT WAS IN YEARS.
10 A THE RECORDS FOR '74, THE RECORDS FOR '73,
11 RECORDS FOR '71.
12 Q OKAY. GOT IT.
13 A '70.
14 Q ALL RIGHT.
15 A DID I MISS '72?
16 Q WELL, IN A FOUR-YEAR TIME PERIOD WE'RE TALKING
17 ABOUT; RIGHT?
18 A THAT'S WHAT I'M TALKING ABOUT. THERE WAS ONE
19 PAGE TO EACH OF THOSE.
20 Q OKAY. IS THERE A WAY FROM LOOKING AT THOSE
21 RECORDS TO TELL ME WHETHER OR NOT THE PHENOLIC MOLDING
22 MATERIALS THAT WERE SOLD TO BENDIX THAT YOU REFERRED TO
23 FROM THE SALES RECORDS CONTAINED ASBESTOS?
24 A FROM THE NUMBERS, YES.
25 Q SO FROM THE NUMBERS YOU CAN TELL WHETHER OR NOT

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1 THEY DID CONTAIN ASBESTOS?
2 A YES.
3 Q AND IS THE ANSWER TO MY QUESTION THAT THEY DID?
4 A 7335 CONTAINED 5 PERCENT ASBESTOS PRIOR TO --
5 UP TO ABOUT THE END OF 1971, WHEN IT WAS REMOVED.
6 Q UP AND UNTIL WHAT YEAR?
7 A THE END OF 1971.
8 Q AND THAT 7335 NUMBER IS -- IS THE PRODUCT
9 FORMULATION NUMBER.
10 A YES.
11 Q IS THAT --
12 A YES, IT IS.
13 Q OKAY. WERE THERE OTHER PRODUCT FORMULATION
14 NUMBERS BESIDES 7335 THAT UNION CARBIDE THROUGH THEIR
15 BAKELITE DIVISION WAS SELLING AS FAR AS PHENOLIC MOLDING
16 MATERIALS TO BENDIX?
17 A THERE, I THINK, WAS A 5498, AND THE ASBESTOS
18 WAS REMOVED FROM THAT ALSO ABOUT THE SAME TIME, TO THE
19 BEST OF MY RECOLLECTION.
20 Q SO APPROXIMATELY '71?
21 A '71, LATE '71.
22 Q ANY OTHER FORMULATION NUMBERS THAT YOU SAW --
23 A 5020. THAT DID NOT CONTAIN ASBESTOS.
24 Q SO THAT WAS ANOTHER FORMULATION NUMBER THAT YOU
25 SAW AS FAR AS PHENOLIC MOLDING MATERIALS BEING SOLD FROM

54

1 THE BAKELITE DIVISION TO BENDIX?
2 A YES.
3 Q OKAY. ANY OTHER FORMULATION NUMBERS?
4 A NO, NONE -- NONE THAT I RECALL AT THIS TIME.
5 Q OKAY. ALL RIGHT. SO IN TERMS OF THE OVERALL
6 VOLUME OF PHENOLIC MOLDING MATERIALS SOLD FROM THE
7 BAKELITE DIVISION TO BENDIX, CAN YOU TELL ME HOW MUCH OF
8 THAT WAS ASBESTOS-CONTAINING PHENOLIC MOLDING MATERIALS
9 VERSUS NONASBESTOS?
10 MS. OBERG: I'M OBJECTING INSOFAR AS IT'S
11 VAGUE. WHEN YOU SAY HOW MUCH --
12 MR. JACKSON: QUANTITYWISE.
13 THE WITNESS: AFTER THE END OF 1971, NONE.
14 BY MR. JACKSON:
15 Q OKAY. SO I GUESS THE WAY TO ANSWER THAT
16 QUESTION WOULD BE YOU'D LOOK AT THE SALES RECORDS, YOU'D
17 LOOK AT THE PRODUCT FORMULATION NUMBER. IF IT WAS 7345
18 OR 5498 AND IT WAS DATED PRIOR TO '71, THAT WOULD
19 IDENTIFY A FORMULA WITH ASBESTOS IN IT.
20 A YES.
21 Q AND ANY OF THE FORMULAS AFTER '71 FOR THOSE
22 SALES, IT WOULDN'T HAVE ASBESTOS?
23 A THAT'S RIGHT.
24 Q OKAY. BUT IN TERMS OF HOW MUCH THAT WAS SOLD
25 FROM THE BAKELITE DIVISION TO BENDIX, YOU'D JUST HAVE TO

55

1 LOOK AT THE SALES RECORDS TO DETERMINE THAT.
2 A I'D JUST HAVE TO ADD UP WHAT WAS LISTED THERE
3 FOR EACH MONTH.
4 Q HAVE YOU DONE THAT? IS THERE ANY WAY TO
5 ESTIMATE THAT?
6 A NO, I HAVEN'T. THE QUANTITY IS SMALL.
7 MR. JACKSON: AM I GOING TO GET THE SALES
8 RECORDS, BY THE WAY?
9 MS. OBERG: IF YOU WANT THEM, BRUCE, THERE'S A
10 CRITICAL QUESTION THAT'S OUTSTANDING HERE, AND THAT --
11 YOU KNOW, IT'S YOUR DEPOSITION -- IF YOU WANT THEM, BUT
12 WE WILL -- WE WILL CONSIDER THAT AND -- AND PRODUCE
13 THEM.
14 MR. JACKSON: WELL, YEAH, BECAUSE I CAN'T
15 REALLY QUESTION HIM ABOUT THE RECORDS IF I DON'T EVEN
16 SEE THEM. I MEAN I UNDERSTAND YOUR POSITION MAY BE THAT
17 THEY PERTAIN TO SOMETHING THAT'S NOT RELEVANT. RIGHT?
18 MS. OBERG: YES. THAT'S CORRECT.
19 MR. JACKSON: BUT WITHOUT SEEING THE RECORDS
20 THEMSELVES, I CAN'T EXAMINE ON THAT SUBJECT OF WHETHER
21 THEY'RE RELEVANT OR NOT.
22 MS. OBERG: OKAY. LET'S GO OFF THE RECORD FOR
23 A SECOND AND DISCUSS IT.
24 MR. JACKSON: LET'S GO OFF THE RECORD.
25 MS. OBERG: WE'LL GO BACK ON THE RECORD IF WE

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1 WANT TO PUT SOMETHING ON IT ABOUT THIS, BUT, YOU KNOW,
 2 YOU HAVE TO --
 3 MR. JACKSON: OKAY. OFF THE RECORD AT THIS
 4 TIME.
 5 (DISCUSSION HELD OFF THE RECORD.)
 6 MS. OBERG: WE'VE HAD A DISCUSSION ABOUT THE
 7 PRODUCTION OF THE SALES RECORDS, AND I WILL MAKE THIS
 8 COMMITMENT TO MR. JACKSON.
 9 IF BY THE END OF THIS DEPOSITION YOU ARE STILL
 10 INTERESTED IN SEEING THE RECORDS OF SALES OF MOLDING
 11 COMPOUNDS TO BENDIX, WE WILL PRODUCE THEM.
 12 CAN WE TAKE A BREAK, JUST A COMFORT BREAK?
 13 MR. JACKSON: YEAH, 'CAUSE I MAY HAVE ANOTHER
 14 HALF HOUR OR SO AT THE MOST.
 15 MS. OBERG: OKAY.
 16 MR. JACKSON: I REALLY AM NOT GOING TO SPEND
 17 ALL DAY. I THINK YOU SHOULD AT LEAST GET TO SPEND SOME
 18 TIME DOING SOMETHING OTHER THAN THIS WHILE YOU'RE OUT
 19 HERE.
 20 (RECESS.)
 21 BY MR. JACKSON:
 22 Q MR. MARTINO, I'M GOING TO -- I HAVE SOME
 23 FOLLOWUP QUESTIONS ABOUT THE PHENOLIC MOLDING MATERIALS
 24 SOLD TO BENDIX IN THIS TIME FRAME THAT WE WERE TALKING
 25 ABOUT, '69 TO '74 APPROXIMATELY, BUT BEFORE I JUST GET

57

1 NARROWED IN ON THAT TIME FRAME, I WANT TO MAKE SURE.
 2 WERE YOU ABLE TO DETERMINE WHETHER OR NOT UNION
 3 CARBIDE WAS EVER SELLING PHENOLIC MOLDING MATERIALS
 4 THROUGH THEIR BAKELITE DIVISION FOR BENDIX CORPORATION
 5 BEFORE 1969?
 6 A I DIDN'T DO THAT.
 7 Q OKAY. SO IT'S -- I'M GOING TO GO TO THAT '69
 8 TIME FRAME --
 9 A YEAH.
 10 Q -- BUT AS FAR AS BEFORE THAT TIME FRAME, YOU
 11 DIDN'T MAKE ANY ATTEMPT TO DETERMINE WHETHER OR NOT THEY
 12 WERE SELLING TO BENDIX PHENOLIC MOLDING MATERIALS PRIOR
 13 TO THAT TIME FRAME, '69 --
 14 A NO, I DID NOT.
 15 Q OKAY. SO LET'S JUST GO BACK TO THE '69 TO '74
 16 TIME FRAME WHERE YOU FOCUSED ON. WERE YOU ABLE TO
 17 DETERMINE, AS FAR AS THE PHENOLIC MOLDING MATERIALS THAT
 18 WERE BEING SOLD TO BENDIX THROUGH THE BAKELITE DIVISION
 19 IN THIS PERIOD, WHAT THOSE MATERIALS WERE FOR?
 20 A THEY WOULD BE FOR COMPONENTS OF A BRAKE SYSTEM.
 21 Q OKAY. AND HOW IS IT THAT YOU WOULD BE ABLE TO
 22 DETERMINE THAT?
 23 A IT SAID "AUTOMOTIVE PARTS" ON THE SHEETS, THE
 24 FORMULA SHEET. NOW, WHEN I SAY AUTOMOTIVE PARTS, I'M
 25 NOT REFERRING TO BRAKE LININGS OR CLUTCH FACINGS OR

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1 BRAKE PADS. IT'S PARTS THAT GO INTO THE HYDRAULIC
 2 SYSTEM OF THE BRAKE SYSTEM, NOT THE FRICTION PARTS.
 3 Q OKAY. BUT TO UNDERSTAND: THE RECORDS THAT YOU
 4 LOOKED AT THAT SAID "AUTOMOTIVE PARTS," WOULD THOSE BE
 5 THE FORMULATION SHEETS THAT YOU WERE REFERRING TO?
 6 A YES.
 7 Q OKAY. AND THOSE FORMULATION SHEETS, DID THEY
 8 ALSO INDICATE WHO THE CUSTOMER WAS?
 9 A IN THE CASE OF 7335, IT WOULD -- WAS -- IT
 10 MENTIONED BENDIX.
 11 Q OKAY. SO IT ACTUALLY SAID "BENDIX" --
 12 A YES.
 13 Q -- ON THE FORMULATION SHEET?
 14 A YEAH.
 15 Q ALL RIGHT. AND YOU SAID THAT THE -- THE
 16 PHENOLIC MOLDING MATERIALS WERE BEING SOLD FOR
 17 AUTOMOTIVE PARTS BUT NOT FOR USE AS BRAKE LININGS?
 18 A THAT'S CORRECT.
 19 Q OKAY.
 20 A FOR FRICTION PARTS, MY DEFINITION OF FRICTION
 21 PARTS WOULD BE BRAKE LININGS, BRAKE PADS, CLUTCH
 22 FACINGS.
 23 Q SO THEY WEREN'T BEING SOLD FOR THAT PURPOSE.
 24 THEY WERE BEING SOLD FOR WHAT PURPOSE?
 25 A FOR SOME COMPONENT IN THE HYDRAULIC SYSTEM THAT

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1 WAS CONSIDERED PART OF THE ENTIRE BRAKE SYSTEM.
 2 Q OKAY. AND HOW DO YOU KNOW THAT?
 3 A HOW DO I KNOW THAT THAT'S WHAT THEY WERE GOING
 4 TO BE USED FOR?
 5 Q RIGHT.
 6 A AT THE TIME THAT THE REQUEST WOULD BE MADE FOR
 7 A PARTICULAR PRODUCT, A CUSTOMER WOULD TELL US, YOU
 8 KNOW, THAT -- WHAT PARTICULAR PART WOULD -- THEY WERE
 9 LOOKING AT.
 10 Q WELL, IN OTHER WORDS, IS THERE SOMETHING THAT
 11 YOU COULD REFER TO ON THE FORMULATION SHEET ITSELF THAT
 12 TELLS YOU, "OKAY. FROM MY EXPERIENCE FROM LOOKING AT
 13 THIS FORMULATION SHEET, I CAN TELL THAT THIS WOULD BE
 14 USED NOT FOR A FRICTION MATERIAL BUT FOR THE HYDRAULIC
 15 SYSTEM"?
 16 A THAT CONCLUSION WOULD COME FROM KNOWING WHAT WE
 17 WERE DOING IN A PHENOLIC RESIN AREA AND HOW OUR BUSINESS
 18 WAS SEPARATED, NOT FROM THE FORMULATION SHEET.
 19 Q OKAY. ALL RIGHT. AS FAR AS THE SALES RECORDS
 20 THAT YOU HAD LOOKED AT, IS THERE ANYTHING ON THE SALES
 21 RECORD THAT WOULD BE ABLE TO HELP YOU UNDERSTAND WHAT
 22 THE -- THE PHENOLIC MOLDING MATERIALS BEING SOLD TO
 23 BENDIX WERE BEING USED FOR JUST ON THE SALES RECORD
 24 ITSELF?
 25 A SALES RECORD WOULD ONLY SHOW THE NUMBER.

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1 Q OKAY. ALL RIGHT. SO YOU SAY THAT
2 UNDERSTANDING, THAT THESE WERE BEING USED AS PART OF A
3 HYDRAULIC SYSTEM AS OPPOSED TO FRICTION PARTS, IT CAME
4 THROUGH KNOWING WHAT YOU WERE DOING AS PART OF WORKING
5 IN THE PHENOLIC RESINS AREA?

6 A YES. AND THE TESTS THAT YOU WOULD RUN ON THE
7 PART IN ORDER TO SATISFY THE CUSTOMER'S NEEDS.

8 MS. OBERG: BRUCE, HE JUST SAID IN THE PHENOLIC
9 RESINS AREA. I KNOW YOU WERE -- NEVER MIND. WITHDRAW
10 THE COMMENT. WITHDRAW THE COMMENT.

11 MR. JACKSON: I JUST REPEATED WHAT HE SAID.

12 MS. OBERG: I KNOW.

13 BY MR. JACKSON:

14 Q IN OTHER WORDS, PERFORMANCE-TYPE TESTING?

15 A YES.

16 Q OKAY. DO YOU HAVE A MEMORY OF YOURSELF BEING
17 INVOLVED IN ANY PERFORMANCE-TYPE TESTING FOR PHENOLIC
18 MOLDING MATERIALS THAT WERE SOLD TO BENDIX?

19 A I PERSONALLY WAS NOT INVOLVED, BUT PEOPLE WHO
20 WORKED IN THE GROUP WERE RESPONSIBLE FOR PERFORMING
21 THOSE TESTS AND FOLLOWING UP WITH THE CUSTOMER AND WHAT
22 TESTS THE CUSTOMER WAS RUNNING ON THEM. DOUG FASSETT,
23 FOR EXAMPLE.

24 Q ANY OTHER PERSONS BESIDES DOUG FASSETT THAT YOU
25 WOULD NAME WHO WOULD BE INVOLVED IN THAT TYPE OF

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1 Q FAIR WAY TO CATEGORIZE IT? OKAY. WERE YOU
2 PERSONALLY AWARE DURING THIS TIME FRAME THAT THE
3 BAKELITE DIVISION WAS DOING PERFORMANCE TESTING ON
4 PHENOLIC MOLDING MATERIALS THAT WERE SOLD TO BENDIX?

5 MS. OBERG: IN OTHER WORDS, DOES HE KNOW IT
6 HAPPENED IN THIS INSTANCE?

7 MR. JACKSON: WELL, YEAH.

8 Q LET ME MAKE SURE YOU UNDERSTAND WHAT I'M
9 ASKING. AT THE TIME IN THE '69 TO '74 TIME FRAME, YOU
10 WERE DOUG FASSETT'S BOSS IN THIS TIME FRAME?

11 A YES.

12 Q OKAY. AND YOU HAD MENTIONED THAT DOUG FASSETT
13 WAS THE PERSON THAT WAS INVOLVED IN THIS TYPE OF
14 PERFORMANCE TESTING, NOT YOU PERSONALLY.

15 A THAT'S RIGHT.

16 Q IS THAT FAIR?

17 A THAT'S RIGHT.

18 Q WERE YOU AWARE AT THAT TIME THAT PERFORMANCE
19 TESTING WAS BEING DONE FOR PHENOLIC MOLDING MATERIALS
20 THAT WERE BEING SOLD TO BENDIX IN PARTICULAR?

21 A YES. IT WAS ON THE SHEET.

22 Q YOU MEAN IT WAS ON THE --

23 A ON THE DATA SHEET, ON THE FORMULATION SHEET,
24 THE CUSTOMER.

25 Q OKAY. BUT IS THIS SOMETHING THAT YOU RECENTLY

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1 PERFORMANCE TESTING FOR A PHENOLIC MOLDING MATERIAL SOLD
2 TO BENDIX?

3 A BENDIX CORPORATION -- THE BENDIX PERSON WHO WAS
4 GOING TO USE THE MATERIAL WOULD ALSO BE RESPONSIBLE FOR
5 RUNNING PERFORMANCE TESTS.

6 Q WAS THAT AFTER THE PRODUCT WAS SOLD, OR WAS
7 THAT IN SOME WAY DONE IN CONJUNCTION WITH UNION
8 CARBIDE'S PERFORMANCE TESTING?

9 A WELL, THE SAMPLE QUANTITY -- THE PROCEDURE IS
10 TO GIVE THE CUSTOMER SAMPLE QUANTITIES, AND THE CUSTOMER
11 THEN MOLDS IT INTO THE PARTS THEY NEED TO DO THE
12 TESTING, AND IF IT PASSES THE TESTS, THEN SPECIFIES IT
13 FOR THAT PARTICULAR PART.

14 Q OKAY. SO ASIDE FROM BENDIX PERSONNEL AND
15 MR. FASSETT, IS THERE ANYONE ELSE YOU COULD IDENTIFY
16 THAT WOULD BE INVOLVED IN PERFORMANCE TESTING FOR
17 PHENOLIC MOLDING COMPOUNDS SOLD TO BENDIX IN THIS TIME
18 FRAME?

19 A IF THERE WAS SOME REQUEST FOR PHYSICAL
20 PROPERTIES, DOUG FASSETT WOULD SUBMIT SAMPLES OF
21 SPECIMENS TO OUR PHYSICAL TESTING LABORATORY OR, YOU
22 KNOW, IF THAT WAS REQUESTED BY BENDIX.

23 Q BY THE WAY, AT THIS TIME YOU WERE DOUG
24 FASSETT'S BOSS?

25 A YES.

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1 LEARNED WHEN YOU WENT BACK AND LOOKED AT THE FORMULATION
2 SHEETS?

3 A IT REFRESHED MY MEMORY.

4 Q OKAY.

5 A I SIGNED IT. I USUALLY SIGNED THE FORMULATION
6 SHEETS.

7 Q OKAY.

8 A I, YOU KNOW, APPROVED THEM --

9 Q OKAY?

10 A -- BEFORE THEY WENT TO MANUFACTURING.

11 MS. OBERG: IS THE DISTINCTION -- I'M SORRY TO
12 INTERRUPT. IS THE DISTINCTION WHETHER MR. MARTINO KNOWS
13 THAT UNION CARBIDE PERFORMED PERFORMANCE TESTS ON
14 PRODUCTS DESTINED FOR BENDIX?

15 MR. JACKSON: YES.

16 MS. OBERG: DID YOU HEAR THAT? DO YOU KNOW --
17 I DON'T WANT TO PHRASE IT.

18 MR. JACKSON: NO, NO. GO AHEAD.

19 MS. OBERG: I WANT IT CLEAR. DO YOU KNOW
20 WHETHER UNION CARBIDE -- IN THE 1960'S WHETHER UNION
21 CARBIDE ITSELF DID PERFORMANCE TESTS ON MOLDING
22 COMPOUNDS DESTINED FOR BENDIX AS OPPOSED TO BENDIX DOING
23 TESTS ITSELF?

24 THE WITNESS: I DON'T -- SPECIFICALLY WHAT
25 BENDIX ASKED FOR I DON'T REMEMBER NOW.

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1 BY MR. JACKSON:

2 Q OKAY. ALL RIGHT. I GUESS WHAT I'M GETTING AT

3 IS I HAD PREVIOUSLY ASKED YOU IF JUST FROM LOOKING AT A

4 FORMULATION SHEET YOU CAN DETERMINE JUST FROM THE

5 FORMULATION SHEET WHAT THE PHENOLIC MOLDING MATERIAL

6 THAT'S BEING SOLD TO BENDIX IS GOING TO BE USED FOR.

7 JUST FROM LOOKING AT THAT SHEET, YOU HAD SAID

8 YOU COULDN'T DO IT JUST FROM THAT; CORRECT?

9 MS. OBERG: OBJECTION. MISSTATES TESTIMONY.

10 BY MR. JACKSON:

11 Q AM I MISSTATING YOUR TESTIMONY?

12 A IF THE SHEET WOULD SAY "AUTOMOTIVE PARTS," THAT

13 WOULD BE WHAT I WOULD, YOU KNOW, CONCLUDE IT WAS BEING

14 DEVELOPED FOR.

15 Q OKAY. BUT YOU COULDN'T TELL MORE SPECIFICALLY

16 OTHER THAN AUTOMOTIVE PARTS WHETHER IT WAS BEING USED AS

17 A FRICTION MATERIAL OR AS A HYDRAULIC -- PART OF A

18 HYDRAULIC SYSTEM JUST FROM LOOKING AT THE FORMULATION

19 SHEET.

20 A THE PERFORMANCE TESTS WOULD TELL ME. WE WERE

21 NOT SET UP TO RUN PERFORMANCE TESTS IN THE MOLDING

22 MATERIAL AREA FOR BRAKE LININGS OR THE FRICTION PADS.

23 THAT WAS DONE IN A SEPARATE AREA IN UNION CARBIDE AS A

24 PART OF THE PHENOLIC RESINS SALES.

25 SO IT WASN'T NECESSARY FOR ME TO LOOK AT THE

65

1 FORMULA TO DETERMINE WHETHER OR NOT IT WAS GOING TO BE A

2 FRICTION MATERIAL. IT'S A COMPLETELY DIFFERENT

3 FORMULATION THAN WHAT THE FRICTION MATERIAL PEOPLE WERE

4 DOING.

5 Q CAN YOU DESCRIBE --

6 A I'M SORRY. ARE YOU --

7 MS. OBERG: IT'S FINE.

8 THE WITNESS: I MEAN I --

9 MS. OBERG: IF YOU NEED CLARIFICATION --

10 THE WITNESS: I MEAN --

11 MS. OBERG: NO. HE'LL ASK QUESTIONS.

12 THE WITNESS: I --

13 MS. OBERG: HE'LL ASK QUESTIONS.

14 THE WITNESS: OKAY.

15 MS. OBERG: YOU'RE DOING FINE.

16 BY MR. JACKSON:

17 Q OKAY. SO YOU'RE DISTINGUISHING THERE IN YOUR

18 ANSWER PHENOLIC RESINS VERSUS PHENOLIC MOLDINGS?

19 A YES. THAT'S CORRECT.

20 Q ALL RIGHT. SO IN THE PHENOLIC MOLDINGS SECTION

21 WHEN THERE WAS PERFORMANCE TESTING DONE, THERE WAS

22 NOTHING SET UP TO TEST ANY OF THE PHENOLIC MOLDINGS

23 BEING SOLD FOR USE IN FRICTION APPLICATIONS.

24 A THAT'S CORRECT. AT NO TIME DID WE EVER DEVELOP

25 A PHENOLIC MOLDING MATERIAL FOR A FRICTION PART IN THE

66

1 AUTOMOTIVE INDUSTRY.

2 Q OKAY. SO --

3 A AND BY FRICTION PART I DEFINE BRAKE LINING,

4 BRAKE PADS, CLUTCH FACINGS.

5 Q OKAY. NOW, WHAT THAT TELLS YOU IS SINCE FOR

6 PERFORMANCE TESTING THERE WAS NO SETUP TO TEST PHENOLIC

7 MOLDINGS FOR FRICTION APPLICATIONS, WHAT IT TELLS YOU --

8 BECAUSE THERE WASN'T ANY PERFORMANCE TESTING BEING DONE,

9 WHAT IT TELLS YOU IS BECAUSE PHENOLIC MOLDINGS WEREN'T

10 BEING SOLD FOR THAT PURPOSE?

11 A THAT'S CORRECT. YOU NEEDED AN ENTIRELY

12 DIFFERENT FORMULATION AND INGREDIENTS WHICH OUR PROCESS

13 WOULD NOT HANDLE.

14 Q OKAY. SO --

15 A AND I'M AWARE OF THAT BECAUSE WE HAD PEOPLE, A

16 GROUP THAT DEVELOPED A RESIN SPECIFICALLY FOR BRAKE

17 LINING CUSTOMERS AND SOLD RESIN TO THEM, AND THEY HAD

18 EQUIPMENT FOR TESTING THOSE RESINS IN FRICTION

19 APPLICATIONS AS A MEANS OF DEVELOPING THAT PHENOLIC

20 RESIN. SO, YOU KNOW, THE TWO WERE SEPARATE UNITS, AND

21 THE SALES WERE SEPARATE -- CONSIDERED LIKE SEPARATE

22 ORGANIZATIONS FOR --

23 Q ALL RIGHT. SO FOR THE PHENOLIC MOLDINGS

24 DIVISION, THE PERFORMANCE TESTING THAT WAS DONE FOR THE

25 PHENOLIC MOLDINGS THAT WERE BEING SOLD TO BENDIX WAS

67

1 WHAT TYPE OF PERFORMANCE TESTING?

2 A IT WOULD BE PHYSICAL PROPERTIES: TENSILE,

3 FLEXURAL, IMPACT STRENGTH WHICH WE DID ON ANY PRODUCT WE

4 DEVELOPED.

5 Q OKAY.

6 A ANY -- ANY PERFORMANCE FACET INVOLVED THE

7 MOLDED PART IN THE BRAKE SYSTEM WOULD BE DONE BY BENDIX

8 OR WHOEVER BENDIX, YOU KNOW, HAD DOING THOSE TESTS --

9 Q AND --

10 A -- AND THE PRESSURE TESTS THEY WOULD RUN.

11 Q AND FOR THAT TYPE OF TESTING IN THE PHENOLIC

12 MOLDINGS DIVISION, NOT PHENOLIC RESINS, THE PERSON THAT

13 YOU REMEMBER, OR THAT AT LEAST YOU CAN IDENTIFY TODAY --

14 A YEAH.

15 Q -- THAT WOULD HAVE BEEN INVOLVED IN THAT WAS

16 DOUG FASSETT?

17 A YES.

18 Q OKAY. DOUG FASSETT WAS NOT, TO YOUR KNOWLEDGE,

19 INVOLVED IN ANY OF THE TESTING DONE FOR PHENOLIC RESINS?

20 A NO, HE WAS NOT.

21 Q AND YOUR PARTICULAR JOB DESCRIPTION, IN TERMS

22 OF BEING DOUG FASSETT'S BOSS, YOU WOULD HAVE HAD AN

23 UNDERSTANDING WHAT WAS GOING ON FOR -- LET ME START THAT

24 QUESTION. IT'S GOING TO BE A BAD QUESTION. I PROBABLY

25 WOULD HAVE OBJECTED TO IT MYSELF, SAVE LISA THE TROUBLE.

68

1 YOUR INVOLVEMENT WAS WITH THE PHENOLIC MOLDINGS
2 DIVISION IN TERMS OF PERFORMANCE TESTING, NOT THE
3 PHENOLIC RESINS?
4 A I HAD RESPONSIBILITY FOR LAMINATING RESINS
5 FOR -- DURING SOME OF THOSE 14 YEARS. I ALSO FOR ONE
6 YEAR HAD THE PERSON WHO DID THE DEVELOPMENT OF PHENOLIC
7 RESINS FOR THE BRAKE LINING CUSTOMERS ASSIGNED TO ME FOR
8 A YEAR, PLUS I KNOW THE STRUCTURE OF THE BUSINESS AND
9 HOW WE DEALT WITH THE TWO DIFFERENT APPLICATIONS.
10 Q AND IN TERMS -- JUST SO I'M DISTINGUISHING
11 BETWEEN THE PHENOLIC MOLDINGS AND PHENOLIC RESINS, THE
12 FORMULATIONS THAT YOU MENTIONED EARLIER, 7335, 5498,
13 5020, THOSE ARE ALL FORMULATIONS FOR PHENOLIC MOLDING
14 MATERIALS?
15 A YES.
16 Q OKAY. AND AS FAR AS THE FORMULATION SHEETS AND
17 SALES RECORDS THAT YOU REFERRED TO THAT YOU REVIEWED,
18 THOSE WERE TO ASCERTAIN SALES OF PHENOLIC MOLDING
19 MATERIALS TO BENDIX?
20 A ON THOSE SAME SHEETS SHOWED THE SALES OF RESINS
21 AS WELL, AND I COULD TELL FROM THE DESIGNATION WHICH
22 WERE RESINS AND WHICH WERE MOLDING MATERIALS.
23 Q OKAY. THE RESINS DID NOT HAVE ASBESTOS IN THEM
24 AT THIS TIME FRAME?
25 A NO, THEY DID NOT.

69

1 MS. OBERG: DID THEY EVER?
2 THE WITNESS: NEVER. WELL, I DON'T KNOW ABOUT
3 THE DAYS OF DR. BAEKLAND, BUT THEY DIDN'T AS FAR BACK AS
4 LIKE -- THE RECORDS I'VE SEEN.
5 BY MR. JACKSON:
6 Q OKAY. SO TO KIND OF UNDERSTAND THIS
7 DIFFERENCE, YOU DID SEE THAT THERE WERE SALES OF
8 PHENOLIC RESIN MATERIALS FROM UNION CARBIDE TO BENDIX;
9 HOWEVER, THOSE PHENOLIC RESIN MATERIALS DID NOT HAVE
10 ASBESTOS IN THEM --
11 A THAT'S CORRECT.
12 Q -- CORRECT?
13 AND THOSE PHENOLIC -- PHENOLIC RESIN MATERIALS
14 WOULD BE USED, AS FAR AS YOU UNDERSTOOD, FOR FRICTION
15 APPLICATION?
16 A WHETHER THEY WERE OR NOT, I DON'T KNOW.
17 Q OKAY.
18 A I CAN ONLY SAY THAT THEY WERE PHENOLIC RESINS
19 FROM THE DESIGNATION.
20 Q OKAY. FAIR ENOUGH. BUT THE PHENOLIC MOLDING
21 MATERIALS THAT WE'RE DISCUSSING THAT WERE SOLD WERE NOT
22 USED FOR FRICTION APPLICATIONS, TO YOUR KNOWLEDGE?
23 A THAT'S RIGHT.
24 Q DO YOU KNOW WHO R.T. MARSHALL IS?
25 A HE WAS IN THE PRODUCTION DEPARTMENT. HE KEPT

70

1 RECORDS.
2 Q WHICH PRODUCTION DEPARTMENT?
3 A PHENOLIC MOLDING MATERIAL.
4 Q WHEN YOU SAY HE KEPT RECORDS, WAS -- WHAT WAS
5 HIS JOB TITLE?
6 A I DON'T RECALL THE TITLE. HIS RESPONSIBILITY
7 WAS TO MAINTAIN A -- ALL OF THE FILES WITH ALL THE
8 FORMULATIONS THAT THE MANUFACTURING DEPARTMENT WOULD
9 PRODUCE OR BE ASKED TO PRODUCE.
10 Q AND DO YOU KNOW WHEN HE WAS EMPLOYED WITH UNION
11 CARBIDE?
12 A WHEN HE STARTED, I CAN'T TELL YOU, NO.
13 Q FAIR TO SAY HE WAS EMPLOYED WITH UNION CARBIDE
14 AS OF APPROXIMATELY 1969?
15 A HE WAS THERE MANY OF THE YEARS I WAS IN THE
16 BUSINESS.
17 MR. JACKSON: I WANT TO MARK THIS AS EXHIBIT 2.
18 I'LL SHOW IT TO YOU IN A SECOND.
19 (PLAINTIFFS' EXHIBIT 2 WAS MARKED FOR IDENTIFICATION
20 BY THE CERTIFIED SHORTHAND REPORTER.)
21 MS. OBERG: THANKS.
22 MR. JACKSON: YOU HAVE A COPY OF THAT STUFF?
23 MS. OBERG: YEAH, WE HAVE SEEN THIS. THANKS.
24 THE WITNESS: OKAY.
25

71

1 BY MR. JACKSON:
2 Q OKAY. DOES EXHIBIT 2 THAT I JUST MARKED LOOK
3 FAMILIAR TO YOU? DOES THE DOCUMENT LOOK FAMILIAR TO
4 YOU?
5 A SURE. YES.
6 Q DOES IT APPEAR TO YOU TO BE A COPY OF UNION
7 CARBIDE'S BUSINESS RECORDS?
8 A COPY OF UNION CARBIDE'S MANUFACTURING RECORD.
9 Q CORRECT. IN OTHER WORDS, EXHIBIT 2 APPEARS TO
10 BE A TRUE AND CORRECT COPY OF A UNION CARBIDE BUSINESS
11 RECORD? IS THAT TRUE?
12 A WELL, YOU -- IF YOU'RE CALLING A MANUFACTURING
13 RECORD A BUSINESS RECORD, THEN YES.
14 Q OKAY. WHAT I WANTED TO ASK YOU IS NOT THE
15 COVER PAGE PAGE 2 BUT THE SECOND PAGE OF THAT DOCUMENT.
16 CAN YOU TELL ME WHAT -- DO YOU HAVE AN UNDERSTANDING OF
17 WHAT THAT PAGE 2 IS?
18 A IT'S A SUMMARY OF WHAT THIS PRODUCT IS AND IN
19 THIS PARTICULAR CASE SHOWS CUSTOMER AND APPLICATION.
20 Q IS THAT A PORTION OF A FORMULATION SHEET THAT
21 YOU HAD DESCRIBED EARLIER? IS IT THAT TYPE OF A
22 DOCUMENT?
23 A I AM NOT FAMILIAR ENOUGH WITH HOW THE
24 MANUFACTURING DEPARTMENT FILED THESE, WHETHER THIS WAS
25 PART OF THIS OR WHETHER THEY PUT THIS IN A SEPARATE FILE

72

1 FROM THIS.

2 MS. OBERG: AND JUST TO BE CLEAR FOR THE

3 RECORD, THE "THIS" AND THE "THIS" ARE PAGES 2 AND 3 OF

4 EXHIBITS -- OF EXHIBIT 2.

5 THE WITNESS: YEAH.

6 BY MR. JACKSON:

7 Q OKAY. WOULD IT BE ACCURATE TO SAY THAT PAGE 2

8 WOULD BE THE TYPE OF DOCUMENT THAT YOU REVIEWED PRIOR TO

9 YOUR DEPOSITION IN ORDER TO DETERMINE IF UNION CARBIDE

10 WAS SELLING PHENOLIC MOLDINGS TO BENDIX?

11 A IT WAS REVIEWED AFTER IT WAS -- I DETERMINED

12 THAT -- WELL, LET ME BACK UP ON THIS.

13 MS. OBERG: I SHOWED IT TO HIM.

14 THE WITNESS: YES.

15 MR. JACKSON: NO. I UNDERSTAND.

16 THE WITNESS: YEAH.

17 BY MR. JACKSON:

18 Q YOU TOLD ME THAT YOU'VE LOOKED AT SALES RECORDS

19 AND -- AND FORMULATION SHEETS. IS PAGE 2 -- DOES IT

20 FALL WITHIN THAT CATEGORY OF -- OF EITHER ONE OF THOSE

21 THINGS?

22 A I DON'T REMEMBER WHETHER I SAW 7335 ON THOSE

23 SALES RECORDS OR NOT, BUT I DID SEE THIS DOCUMENT.

24 WHETHER IT WAS ONE OF THE SAMPLES WE'VE TALKED ABOUT OR

25 NOT, I -- I'D HAVE TO TAKE ANOTHER LOOK AT THOSE

73

1 MANUFACTURING RECORDS. I THINK IT WAS -- IN ANY

2 EVENT -- BUT BACK UP AND ASK YOUR QUESTION AGAIN.

3 Q SURE. SURE. WAS PAGE 2 -- WOULD THAT BE --

4 WOULD YOU CATEGORIZE PAGE 2 AS ONE OF THE TYPES OF SALES

5 RECORDS THAT YOU LOOKED AT BEFORE THIS DEPOSITION OR

6 FORMULATION SHEETS?

7 A THIS IS NOT A SALES RECORD.

8 Q OKAY.

9 A YEAH.

10 Q THAT PART.

11 A YOU'RE RIGHT.

12 Q HOW ABOUT FORMULATION?

13 A THAT'S WHAT PROBABLY CONFUSED ME. I DID LOOK

14 AT SALES RECORDS, BUT I ALSO LOOKED AT MANUFACTURING

15 RECORDS.

16 Q RIGHT.

17 A AND THIS WAS PRESENTED TO ME AS A PRODUCT THAT

18 WE MADE FOR BENDIX FOR BRAKE PARTS.

19 Q OKAY. AND SO PAGE 2 IS WHAT EXACTLY?

20 A IT'S A SUMMARY OF WHAT 7335 IS --

21 Q OKAY. SO --

22 A -- IN A GENERAL WAY. THE SPECIFICS WOULD BE IN

23 THE FORMULATION SHEET.

24 Q UH-HUH. LET ME JUST -- I HAD SOME FOLLOWUP

25 HERE. ARE YOU ABLE TO TELL WHAT EACH OF THESE COLUMNS

74

1 REPRESENTS IN TERMS OF WHAT'S WRITTEN ON PAGE 2?

2 A YEAH.

3 Q FOR INSTANCE, THE TOP RIGHT CORNER HAS A

4 NUMBER, BMMA-7335 NT.

5 A YES, I AM.

6 Q OKAY. I KIND OF GUESSED FROM WHAT WE TALKED

7 ABOUT EARLIER TODAY, BUT WHAT DOES THAT REFER TO?

8 A THIS IS PHENOLIC MOLDING, PHENOLIC.

9 Q UH-HUH.

10 A M IS MOLDING. THE THIRD IS A GRANULATION FORM

11 THAT'S IN THIS PARTICULAR CASE, FINES -- REDUCED FINES.

12 A IS THAT THIS IS THE FIRST VERSION OF THIS PRODUCT THAT

13 SHOULD BE DROPPED IF IT BECOMES COMMERCIAL. THIS IS A

14 FAST-CURING TWO STEP. THIS JUST DOESN'T MEAN ANYTHING

15 EXCEPT, YOU KNOW, A DESIGNATION OF THE PRODUCT ITSELF.

16 Q RIGHT.

17 A AND THAT'S NATURAL, NO COLOR.

18 Q OKAY. SO THE 7335 IS THE FORMULATION NUMBER

19 THAT YOU SPOKE ABOUT EARLIER TODAY?

20 A YES.

21 Q OKAY. BELOW THIS THERE IS A CATEGORY THAT SAYS

22 "PRODUCT TYPE CODE." DO YOU KNOW WHAT THAT NUMBER

23 CORRESPONDS TO?

24 A I DON'T RECALL. NO.

25 Q OKAY. WHERE IT SAYS "PROCESSING MOLDING

75

1 RIGID," WHAT DOES THAT TELL YOU OR REFER TO?

2 A IT'S FOR A MOLDING PROCESS AND THAT AFTER IT'S

3 CURED IT IS A VERY RIGID PRODUCT.

4 Q ARE YOU ABLE TO TELL JUST FROM THAT NOTATION OF

5 WHETHER THIS IS A PRODUCT THAT COULD BE USED IN A

6 FRICTION APPLICATION VERSUS HYDRAULIC APPLICATION? IN

7 OTHER WORDS, IS THERE ANYTHING ABOUT THE MOLDING RIGID

8 THAT'S SIGNIFICANT IN DISTINGUISHING BETWEEN THOSE TWO

9 TYPES OF APPLICATIONS?

10 A KNOWING THAT WE NEVER MADE A MOLDING MATERIAL

11 FOR FRICTION PARTS, WHEN I SEE MOLDING, I WOULD KNOW

12 THAT THAT WOULD NOT GO INTO A FRICTION PART.

13 Q OKAY. THE NEXT THING WRITTEN ON PAGE 2 IS:

14 OTHER THAN STANDARD GRANULATION. WHAT IS THAT A

15 REFERENCE TO?

16 A STANDARD GRANULATION WOULD BE CONSIDERED

17 B.M.G., IN OTHER WORDS, CONSIDERED A HIGHER LEVEL OF

18 FINES. SO B.M.M. IS THE REDUCED FINES AND NOT --

19 APPARENTLY NOT CONSIDERED STANDARD BY MANUFACTURING.

20 Q OKAY. SO DOES THAT REFERENCE SAYING -- OTHER

21 THAN STANDARD GRANULATION, DOES THAT IN ANY WAY HELP YOU

22 UNDERSTAND WHETHER OR NOT THIS IS A MATERIAL THAT WOULD

23 BE USED IN A FRICTION APPLICATION VERSUS A HYDRAULIC

24 APPLICATION?

25 I MEAN WE'RE GETTING KIND OF TECHNICAL HERE,

76

1 BUT IN OTHER WORDS, IS THAT SOMETHING THAT WOULD HELP
2 YOU UNDERSTAND, "WELL, OBVIOUSLY IF THIS IS A STANDARD
3 GRANULATION, THEN THERE'S NO WAY IT WOULD BE USED AS A
4 FRICTION PRODUCT?"

5 A GRANULATION HAS NOTHING TO DO WITH WHETHER OR
6 NOT IT'S GOING TO BE A FRICTION MATERIAL OR NOT.

7 Q OKAY. IN OTHER WORDS, IT'S NOT RELEVANT;
8 RIGHT?

9 A OKAY.

10 Q FAIR ENOUGH. DON'T MAKE ME FEEL BAD. AND
11 "APPLICATION BRAKE PARTS," YOU CAN'T TELL FROM JUST
12 LOOKING AT THAT ANYTHING MORE SPECIFIC JUST FROM THIS
13 DOCUMENT ITSELF OF WHAT IT'S GOING TO BE USED FOR?

14 A IF IT WAS BRAKE LININGS, IT WOULD SAY BRAKE
15 LININGS. BRAKE PARTS TO ME DOES NOT MEAN BRAKE LININGS.

16 Q IT MEANS SOMETHING OTHER THAN BRAKE LININGS
17 JUST FROM READING THAT?

18 A YES. IT MEANS A MOLDED RIGID PART THAT IS USED
19 IN THE BRAKE SYSTEM. AND AGAIN, I TOLD YOU BEFORE WE
20 NEVER MADE A MOLDING MATERIAL FOR BRAKE LININGS. THEY
21 WOULD REQUIRE AN ENTIRELY DIFFERENT FORMULATION THAN
22 WHAT WE USED FOR MOLDING.

23 Q OKAY. ALL RIGHT. COULD YOU JUST KIND OF IN
24 SUMMARY FASHION TELL ME IF YOU'RE ABLE TO IDENTIFY WHAT
25 THE REMAINING PAGES OF EXHIBIT 2 ARE? AND WE ARE NOW ON

77

1 PAGE 3, AND JUST SO IT'S CLEAR ON THE RECORD, THE -- THE
2 CORRESPONDING BATES STAMP NUMBER FOR PAGE 2 WAS
3 UCASB00938672. AND SO PAGE 3 OF THIS EXHIBIT, THE
4 CORRESPONDING BATES STAMP NUMBER IS UCASB00938673.

5 SO IF YOU COULD JUST SUMMARIZE WHAT THIS
6 PARTICULAR PAGE REFERS TO.

7 A THESE ARE INSTRUCTIONS TO THE OPERATORS -- FOR
8 THE OPERATORS AS TO HOW THEY ARE SUPPOSED TO SET THE
9 VARIOUS COMPONENTS OF OUR MANUFACTURING PROCESS TO MAKE
10 THIS PRODUCT.

11 Q OKAY. IS THERE ANY WAY FROM LOOKING AT THAT
12 PAGE THAT YOU CAN TELL ME THAT THE FORMULATION NO. 7335
13 HAD ASBESTOS IN IT?

14 A NO.

15 Q OKAY. OKAY. WHAT'S THE NEXT PAGE OF THIS
16 DOCUMENT, WHICH IS PAGE 4 AND BATES STAMPED WITH -- THE
17 LAST FOUR DIGITS OF THAT BATES STAMP ARE -8674? WHAT'S
18 THAT PAGE?

19 A THIS IS THE FORMULATION --

20 Q OKAY.

21 A -- OF THE PRODUCT. IT LISTS THE INGREDIENTS
22 AND THE QUANTITIES WHICH THE OPERATOR HAS TO PUT INTO
23 THE BLENDER IN ORDER TO MAKE THE PRODUCT.

24 Q OKAY. SO DOES THAT FORMULATION INDICATE TO YOU
25 WHETHER OR NOT THERE'S ASBESTOS IN 7335?

78

1 A YES.

2 Q OKAY. HOW?

3 A THIS IS ASBESTOS, 18-Q.

4 Q IT SAYS RM-18-Q?

5 A YES.

6 Q WHAT MAKES YOU SAY THAT THAT MEANS -- REFERS TO
7 ASBESTOS AS A COMPONENT?

8 A I KNOW FROM OUR RAW MATERIAL PRODUCT CODE THAT
9 I -- THAT 18-Q IS ASBESTOS.

10 Q OKAY. ALL RIGHT. AND THE NEXT PAGE OF THIS
11 DOCUMENT --

12 MS. OBERG: IS VIRTUALLY ILLEGIBLE.

13 BY MR. JACKSON:

14 Q CAN YOU JUST TELL ME WHAT THAT IS IF YOU CAN
15 READ IT?

16 A LIKE THE PREVIOUS PAGE EXCEPT --

17 MS. OBERG: YEAH. I'M SURE --

18 THE WITNESS: THIS IS A REVISION OF THE
19 PREVIOUS PAGE, FEBRUARY 1970, AND IT SUPERSEDES THE
20 PREVIOUS PAGE.

21 BY MR. JACKSON:

22 Q OKAY. SO IT STILL APPLIES TO THE SAME
23 FORMULATION NO. 7335; IT'S JUST REVISED AS OF FEBRUARY
24 1970?

25 A WELL, SOME CHANGE WAS MADE.

79

1 Q DOES IT STILL INDICATE TO YOU THAT THERE'S
2 ASBESTOS IN THAT FORMULATION?

3 A YES.

4 Q OKAY. AND LET'S MOVE TO THE LAST PAGE, WHICH
5 DOES NOT EVEN HAVE A BATES STAMP. THAT ONE'S REALLY
6 ILLEGIBLE.

7 MS. OBERG: YES, THERE IS A BATES STAMP.

8 BY MR. JACKSON:

9 Q JUST THE LAST FOUR DIGITS ON THE BATES STAMP
10 ARE THREE -- I'M SORRY -- -8675 ARE THE LAST FOUR DIGITS
11 THERE. WHAT'S THAT LAST PAGE?

12 A A RAW MATERIAL CODE NUMBER CHANGE THERE FROM --
13 DPM TO RM-52-D. IT LOOKS JUST THAT THEY CHANGED THE RAW
14 MATERIAL CODE FROM ONE SHEET TO THE OTHER. IT ISN'T
15 CLEAR FROM THIS WHETHER IT WAS A CHANGE, JUST THE -- WAS
16 IT THE PRODUCT? -- THE INGREDIENT WAS THE SAME, AND ONLY
17 THE CODE CHANGE OR WHETHER THERE WAS A CHANGE IN
18 MATERIAL AS WELL. THE REST ARE SCREEN -- SCREENS, THE
19 WAY THE SCREENS ARE SUPPOSED TO BE SET UP IN ORDER TO
20 MAKE THE RIGHT FORMULATION.

21 Q OKAY. THANK YOU FOR THAT EXPLANATION 'CAUSE I
22 STRUGGLED FIGURING THAT STUFF OUT ON MY OWN.

23 A YOU SAID WHAT?

24 Q I STRUGGLED TRYING TO FIGURE THAT STUFF OUT ON
25 MY OWN. OKAY. JUST TO --

80

1 A IT ISN'T EASY. I'LL GIVE YOU THAT.

2 Q TO KIND OF WRAP UP ON THE SUBJECT AND WRAP UP

3 THE DEPOSITION: YOU HAD MENTIONED THAT THESE -- THAT

4 THE PHENOLIC MOLDINGS THAT WERE BEING SOLD TO BENDIX

5 WERE USED FOR SOME COMPONENT IN THE HYDRAULIC SYSTEM.

6 CAN YOU BE MORE --

7 A WELL, IN THE BRAKE SYSTEM --

8 Q RIGHT.

9 A -- IN -- AND I'M NOT THAT KNOWLEDGEABLE ABOUT

10 THE FUNCTION OF VARIOUS PARTS BEYOND, YOU KNOW, THAT --

11 THAT CLOSED THE BRAKE -- THAT APPLY THE -- THE PRESSURE

12 TO THE BRAKE LININGS TO STOP THE CAR. I -- BUT IT WOULD

13 BE COMPONENTS IN WHATEVER WAS IN THAT BACK SYSTEM.

14 WHETHER THEY'RE SUPPORT PLATES OR PARTS OF A PUMP OR

15 THAT, I DON'T KNOW. I'M NOT THAT FAMILIAR WITH THE

16 SYSTEM.

17 Q OKAY. YEAH. 'CAUSE THAT WAS THE -- KIND OF

18 THE LAST LEG OF INQUIRY FOR ME IS: YOU'VE TOLD ME HOW

19 YOU UNDERSTOOD IT WASN'T USED FOR A FRICTION MATERIAL --

20 A YES.

21 Q -- BUT HOW DID YOU COME TO THE UNDERSTANDING

22 THAT IT WAS GOING TO BE USED AS SOME COMPONENT OF A

23 HYDRAULIC SYSTEM BY BENDIX?

24 A I JUST MENTIONED HYDRAULIC SYSTEM BECAUSE I

25 MADE THE ASSUMPTION THAT THAT IS WHAT IS THE BRAKE

81

1 SYSTEM. YOU HAVE TO APPLY PRESSURE TO THE BRAKE SYSTEM,

2 AND YOU HAVE TO MAKE -- YOU KNOW, PUT TOGETHER

3 COMPONENTS IN ORDER TO MAKE SURE THAT THE -- THAT THE

4 PRESSURE IS APPLIED TO THE BRAKES. WE WOULD KNOW THE

5 SPECIFIC PART WHEN WE WERE TRYING TO GET APPROVAL FOR

6 THE MATERIAL BECAUSE THEY WOULD TELL US, "WE WANT A

7 PRODUCT FOR THIS PART WHICH IS GOING TO BE USED THIS

8 WAY." I CAN'T TELL WHAT THAT PART WAS FROM THESE

9 RECORDS.

10 Q DOES THE PERFORMANCE TESTING THAT YOU DO HELP

11 YOU UNDERSTAND THAT IT WAS GOING TO BE USED FOR A

12 HYDRAULIC SYSTEM?

13 A NO.

14 Q OKAY.

15 A OH, ONE THING THAT DOES GIVE ME A CLUE IS THAT

16 THERE WAS NO COLOR IN IT. NIGROSINE WAS REMOVED.

17 Q WHY DOES THAT MATTER?

18 A THE OIL WOULD EXTRACT THE NIGROSINE FROM THE

19 COMPOUND, AND THEY WOULD NOT WANT THEIR OIL

20 CONTAMINATED. THAT GIVES ME AN INDICATION THAT IT WOULD

21 BE IN CONTACT WITH SOMETHING THAT WOULD EXTRACT THE

22 COLORANT.

23 Q JUST GIVE ME A MINUTE TO ABSORB THAT. OKAY.

24 ANYTHING ELSE THAT -- THAT WE HAVEN'T TALKED ABOUT

25 ALREADY AS A SUBJECT OF THIS DEPOSITION THAT HELPS YOU

82

1 IN YOUR CONCLUSION TO UNDERSTAND THAT THE PHENOLIC

2 MOLDING MATERIALS SOLD TO BENDIX WOULD HAVE BEEN USED AS

3 SOME COMPONENT OF A HYDRAULIC SYSTEM IN PARTICULAR?

4 A OTHER THAN WHAT I'VE TOLD YOU, NO.

5 Q OKAY. IN OTHER WORDS, I UNDERSTAND THAT YOU

6 DIDN'T DO ANY PERFORMANCE TESTING FOR FRICTION

7 APPLICATIONS. SO THAT OBVIOUSLY ELIMINATES THAT AS A --

8 A YES.

9 Q BUT IN TERMS OF UNDERSTANDING HOW -- WHY IT

10 WAS -- OR HOW YOU KNOW IT WAS USED FOR A HYDRAULIC

11 APPLICATION, YOU'VE TOLD ME EVERYTHING YOU CAN THINK OF

12 AS FAR AS HOW YOU KNOW THAT.

13 A (NO AUDIBLE RESPONSE).

14 Q IS THAT TRUE?

15 A THAT'S TRUE.

16 MR. JACKSON: OKAY. THEN I'M GOING TO STOP

17 THIS DEPOSITION THERE.

18 YEAH. THAT'S ALL I HAVE. I'LL GET BACK TO YOU

19 ON THE DOCUMENTS.

20 MS. OBERG: OKAY.

21 MR. JACKSON: I'LL JUST -- I KIND OF WANT TO

22 REPORT BACK TO MY SUPERIORS IN TERMS OF THE SUBJECT OF

23 THE DEPOSITION TODAY AND WHAT WAS COVERED.

24 MS. OBERG: OKAY.

25 MR. JACKSON: AND WE WILL LET YOU KNOW. SO I

83

1 RESERVE MY RIGHTS TO REQUEST THOSE DOCUMENTS 'CAUSE I

2 STILL THINK THAT'S PERMISSIBLE DISCOVERY, BUT WHETHER OR

3 NOT WE WILL NEED THEM OR NOT, I'LL LET YOU KNOW.

4 MS. OBERG: THAT'S FINE. OKAY.

5 THE WITNESS: GEE, I WILL MAKE MY PLANE.

6 (ENDING TIME: 11:37 A.M.)

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WITNESS'S CERTIFICATE

I AM THE WITNESS IN THE FOREGOING PROCEEDINGS.

I HAVE READ THE FOREGOING PROCEEDINGS, AND HAVING MADE

SUCH CHANGES AND CORRECTIONS AS I DESIRE, I CERTIFY THAT

THE SAME IS TRUE OF MY OWN KNOWLEDGE, EXCEPT AS TO THOSE

MATTERS WHICH ARE THEREIN STATED UPON MY INFORMATION OR

BELIEF, AND AS TO THOSE MATTERS, I BELIEVE IT TO BE

TRUE.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE

LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS

TRUE AND CORRECT.

EXECUTED ON _____,

AT _____.

CARLO MARTINO

REPORTER'S CERTIFICATE

I, MARIA A. MORA, RPR, CSR NO. 12001, A

CERTIFIED SHORTHAND REPORTER IN AND FOR THE STATE OF

CALIFORNIA, DO HEREBY CERTIFY:

THAT PRIOR TO BEING EXAMINED THE WITNESS NAMED

IN THE FOREGOING PROCEEDINGS WAS BY ME DULY SWORN TO

TESTIFY TO THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT

THE TRUTH;

THAT SAID PROCEEDINGS WERE TAKEN BY ME IN

SHORTHAND AT THE TIME AND PLACE HEREIN NAMED AND WERE

THEREAFTER TRANSCRIBED INTO TYPEWRITING UNDER MY

DIRECTION, SAID TRANSCRIPT BRING A TRUE AND CORRECT

TRANSCRIPTION OF MY SHORTHAND NOTES.

I FURTHER CERTIFY THAT I HAVE NO INTEREST IN

THE OUTCOME OF THIS ACTION.

MARIA A. MORA

CSR NO. 12001, RPR