

DII Industries, LLC Asbestos PI Trust

January 12, 2015

VIA EMAIL: mandelbrot@asbestoslegalcenter.org

Mr. Michael Mandelbrot
Mandelbrot Law Firm
582 Market Street, Suite 608
San Francisco, CA 94014

Re: Audit of Claims Filed with the DII Asbestos Trust

Dear Mr. Mandelbrot:

I am writing in connection with the Trust's audit of claims filed by your firm, of which the Trust's Executive Director, Marcellene Malouf, previously notified you. A spreadsheet that identifies the 45 claims initially selected for audit is attached hereto as EXHIBIT A.

Please provide the information or materials listed below by February 25, 2015. Some of the requests may not apply to a particular claim. *You need only respond to those requests that apply.* However, if there are no documents responsive to a particular request on a specific claim, you must advise the Trust of such. Please also advise the Trust should you need additional time to respond to any request.

1. Transcripts of any deposition testimony, witness statement, or other sworn statement of or by you, Michael Dunning, John Lynch, or any other former or current employee of your firm related to its filing of claims with the Trust or any other asbestos bankruptcy trust, including, but not limited to, the following:
 - a. The deposition testimony of John Lynch conducted on September 14, 2012 in connection with your audit by, and lawsuits against, the Western Asbestos Settlement Trust, the J.T. Thorpe Settlement Trust, and the Thorpe Insulation Company Asbestos Settlement Trust (collectively, the "Thorpe Trusts");
 - b. The deposition testimony of Michael Dunning taken in connection with the Thorpe Trusts' litigation and referenced in the United States Bankruptcy Court, Central District of California, Los Angeles Division's Findings of Fact and Conclusions of Law, filed and entered on April 9, 2014 (the "Findings of Fact"); and

P. O. Box 821628
Dallas, TX 75382
(214) 271-0550 (Phone)
(214) 271-0545 (Fax)

www.diiasbestostrust.org
(800) 941-6889 (Toll Free)

Claims Processing Only
P.O. Box 393
Wilmington, DE 19899-1036
(866) 642-3271 (Fax)

- c. Your deposition testimony taken in connection with the Thorpe Trusts' litigation and referenced in the Findings of Fact.
2. Any audit findings or reports related to an audit of your firm by other asbestos bankruptcy trusts, including, but not limited to, the Verus trusts and Claims Processing Facility, Inc. trusts.
3. Any criminal indictments or civil complaints/petitions filed against John Lynch regarding his conduct while employed by your firm and any orders or judgments related thereto, as referenced in your September 28, 2012, letter to various Trust executive directors.
4. The order of the United States Bankruptcy Court, Northern District of California, dismissing the Western Asbestos Settlement Trust's case against you and your firm, including any findings of fact or conclusions of law, as referenced in your email to Marcellene Malouf on December 4, 2014.
5. Your appeal of United States District Court Judge Gregory Sleet's Memorandum and Order, dated September 12, 2014, dismissing your suit against several asbestos bankruptcy trusts.
6. The detailed report of all cases involving the irregular documents in claims filed by John Lynch, prepared by your firm and referenced in the United States Court of Appeals for the Third Circuit's Concise Summary of your case against Armstrong World Industries Asbestos Personal Injury Settlement Trust et al.
7. For each claim selected for audit:
 - a. Social Security records of the injured party and, for secondary exposure claims, the occupationally exposed person (the "OEP").
 - b. Union records of the injured party, and for secondary exposure claims, the OEP, if a member of a union during the period of alleged exposure.
 - c. Military records of the injured party, and for secondary exposure claims, the OEP, if any alleged exposure occurred at a military site.
 - d. A complete file-stamped copy of the original petition/complaint and the most recent amended petition/complaint if an asbestos-related lawsuit was filed by, or on behalf of, the injured party against any defendants.
 - e. The complete deposition testimony, witness statement, or other sworn statement of or by:

- i. the claimant or injured party;
- ii. any personal representative;
- iii. any OEP;
- iv. the injured party's treating or consulting doctors (e.g., pathologist, B-reader, and causation doctor);
- v. any experts; and
- vi. any coworker placing debtor product at an alleged site.

If there is no signature page, please identify the deposition page where the signature has been waived.

- f. Any non-privileged reports by experts who have examined or reviewed the injured party's medical records pertaining to the injured party's asbestos-related disease.
- g. Complete interrogatory responses, along with the questions, from the claimant, injured party, personal representative, and OEP.
- h. If exposure is alleged to have occurred in a shipyard during a time when the injured party, or for secondary exposure claims, the OEP, was stationed aboard a ship, provide evidence to establish that the injured party or OEP actually disembarked the ship and entered the shipyard. The evidence should also describe the injured party's or OEP's activity or work in the shipyard and the amount of time engaged in such activity or work.
- i. If not supported by the documents above, employment records to support the injured party's, or for secondary exposure claims, the OEP's, exposure at the alleged sites.
- j. For secondary exposure claims, if not supported by the documents above, documentation to support the injured party's exposure to the OEP.
- k. For claims in which debtor product was placed at an alleged site by a coworker, if not supported by the documents above, employment records to support the coworker's exposure at the alleged sites.
- l. If not supported by the documents above, documentation to cure any outstanding deficiency on the claim. The system may automatically generate a deficiency letter, which you may receive from the Delaware Claims Processing Facility, requesting the same information. Please send the responsive material along with your audit responses to the Trust

instead of to the Delaware Claims Processing Facility so the claim can be resolved in audit.

- m. For claims in which economic loss is asserted, all documentation used to determine the injured party's economic loss.

Based on the Trust's review of these documents, the Trust may select additional claims filed by your firm for audit and request additional documents.

When responding to this request, please comply with the following guidelines:

- Responsive materials should be organized and clearly identified by claim number.
- All communications about this audit should be directed solely to the Trust and not to the Delaware Claims Processing Facility.
- Do not resubmit documents that are already part of the claim file in Trust Online.
- **Do not** transmit any information or documentation that discloses a complete Social Security number.
- All materials should be provided in **electronic format only** (compact disc, flash drive, or email). Please do not provide hard copies. The email address for submitting responses is: audit@diiasbestostrust.org. The Trust's limit for email attachments is 10MB. If an email response is split into multiple parts, you must clearly identify the total number of emails. Flash drives or compact discs can be mailed to:

DII Asbestos Trust
Attn: Audit Response
P.O. 821628
Dallas, TX 75382

The Trust will not require a retainer or payment at the outset of the audit. However, at the conclusion of the audit, the Trust expects to seek reimbursement of a portion of the audit costs from you based on its audit and investigative findings. The Trust will determine the amount using a reimbursement rate of \$155/hour for attorneys and \$50/hour for non-attorneys.

Until such time as the Trust completes its audit, all claims will remain on hold. We

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appreciate your cooperation in responding to this request. Should you have any questions, do not hesitate to contact me.

Sincerely,



Janet P. Jardin
Assistant General Counsel - Director of Audit