IN THE UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

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JOHNS-MANVILLE SALES CORPORATION, Plaintiff, vs. UNITED STATES OF AMERICA, Defendant.	)	NO. 81-4561 RFP

IN THE UNITED STATES CLAIMS COURT

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JOHNS-MANVILLE CORPORATION, et al., Plaintiffs,	)	CIVIL NO. 465-83C
vs.	)	CIVIL NO. 1-84C
UNITED STATES OF AMERICA, Defendant.	)	CIVIL NO. 688-83C

DEPOSITION OF

PERCY J. GARTLY

September 28, 1984

REPORTED BY: SARAH LUCIA BRANN, CSR NO. 3887

COMPUTER TRANSCRIPTION

SCHILLER, COMBS, RUSSELL & GREENLEY, INC.
COURT AND DEPOSITION REPORTERS
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KEY WORD INDEXED

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the ability to go out and meet customers and to sell a product.

Q. Was there any what you would call informal training?

A. Well, you had to know what it was to be used for, and the proper way to handle it.

Q. How would you learn how the product was going to be used?

A. By asking questions, by reading brochures, literature.

Q. What kind of literature did you read?

A. Well, it would be sales literature, installation literature.

Q. Who would you talk to to find out about this?

A. Other salesmen.

Q. People who had been selling transite pipes, specifically.

A. Yes. People with more experience than I had.

Q. When you were selling transite pipe in the '62 to '65 period, as I understand your previous testimony you would contact the customers directly --

A. Yes.

Q. -- is that correct? You didn't have distributors there.

A. No.

Q. How did you initially find out who your customers

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MR. JARVIS: For the record, I think he has testified earlier this morning that Long Beach was his territory from '51 to '61, the whole state.

MR. AUSTIN: I wanted to clear that up.

Q. When you say that there was no counterpart between 1951 and 1961, is that because you were the one who had responsibility for dealing with the public works office at Long Beach Naval Shipyard during that period?

A. Yes.

Q. Did you ever distribute any literature to the public works office about asbestos-containing thermal insulation products?

A. No.

Q. Do you know if anybody at Johns-Manville distributed information or other published materials, whether they be brochures, to any public works offices in the state of California that dealt with asbestos-containing thermal insulation products?

A. Not to my knowledge.

MR. JARVIS: I am sorry. That just dealt with the products?

MR. AUSTIN: Yes.

MR. JARVIS: Not anything to do with the health.

MR. AUSTIN: That's correct.

MR. JARVIS: Do you understand the question?

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States used to select which one of those they would purchase?

A. Well, repeating myself again, it would be the one that complies with the specification, the material specification, and the low price.

Q. Okay. So it's a factor of specification and price?

A. Specification and price.

Q. Meeting the spec with the lowest price. Okay.

What difference did it make to the United States whether they wanted to buy or a purchasing officer wanted to buy from a particular brand -- could a purchasing officer purchase a particular brand if it wasn't the lowest price, to your knowledge?

A. There are exceptions to everything, but to have to be -- it would be a rare exception when material was purchased that met the specification and was not the lowest price.

Q. You were asked today by Mr. Austin about whether or not you discussed the use of respirators with anyone in the United States, in the employment of the United States, and I think specifically were asked about Mare Island shipyard. And if I recall correctly, your testimony was that you did not. Why did you not discuss respirator usage?

A. Well, I didn't discuss respirators because that is not in my scope of work.

Q. You were asked a similar question about

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distributing literature involving health aspects of exposure to asbestos, and I believe your testimony was that you were not aware of distributing any such literature.

A. That's correct.

Q. Why did you not do that?

A. Well, here again, that was not part of my responsibility, and if there, unless I was told about the literature I didn't know it was available.

Q. Earlier today you testified that in your role as a special representative, and likewise in your role as western ~~distribution~~ Regional manager that you did not provide the technical information concerning the various Manville products. That was left to representatives from each division who might be necessary to explain that; is that correct?

A. That's correct.

Q. You did, however, I think testify that you talked on at least one occasion about technical aspects of transite pipe; is that correct?

A. Well, it was minor technical, but of course transite pipe was what I was trained in, and I know more about transite pipe than any of our other products.

Q. So that was because you had personal familiarity --

A. Yes.

Q. -- with that particular product line prior to being in the government department.

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MR. JARVIS: I think he just answered the question directly before when he said that, if I understand, when you say those people who are buying the products -- and I am not sure who that means. If you are referring to the distributors and contractors, that's one question. If you are talking about the United States, that's another question. I think we need to clear that up. But if we are talking about the United States I think he just answered that question already, the immediately preceding question.

MR. AUSTIN: Q. If you can answer that question -- I understand your objection. But I would just like you to, if you could, answer that question.

A. Well, I have forgotten what the question is.

MR. AUSTIN: Could you repeat it?

(Record read by reporter.)

THE WITNESS: Well, here we would be talking to the contractor, general contractor, subcontractor, and we would try to convince them it would not only be the best product but it would be the best package. You are talking about -- it was not always definitely price. Delivery had a big play to it. Some contractors just didn't like somebody else.

MR. AUSTIN: Q. Now, you mentioned in response to a question from Mr. Jarvis that you dropped off literature --

A. Yes.

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Q. -- to various persons at the government. Okay? What literature were you talking about?

A. I was mainly making reference to the product information book.

Q. Did that information contain specifications in it?

A. It contained our products and it contained the military federal specification or whatever specification that it complied with. It just -- it gave the product name and then it would give the name of the, just state the federal specification and the number. It did not have the complete specification.

(Discussion off the record.)

MR. AUSTIN: Q. You dropped this literature off. It contained specification information. Where did you drop the literature off? What are we talking about specifically?

A. Well, we are talking about the specification at the public works, regardless of which public works it was. We would drop it off to the architectural section, to the civil engineering, to the mechanical engineering, to anybody that would have anything to do with our products.

Q. Would this be true for the public works office at Mare Island Naval Shipyard also?

A. Yes.

Q. Why would you drop off this literature at these places?

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A. For information.

Q. To provide information?

A. Yes. This is a service. Every manufacturer had information like this.

Q. It was a service to the government?

A. Yes.

Q. In your own opinion did you consider that part of promoting Johns-Manville products, by providing the government with this information?

A. Yes.

MR. AUSTIN: Okay. I have nothing further. Mr. Jarvis, do you have any further questions?

MR. JARVIS: One last question. I just want to make sure I understood.

MR. AUSTIN: Never trust a lawyer who says that.

EXAMINATION BY MR. JARVIS

MR. JARVIS: But I mean it.

Q. You said that you dropped this literature off at the various offices, the literature that Mr. Austin just talked to you about, that other manufacturers had and did the same --

A. Oh, yes.

Q. -- type of thing; is that correct?

A. Yes.

Q. From your own personal knowledge you know that

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