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*Counsel for State of Utah*

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**THE THIRD JUDICIAL DISTRICT COURT  
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH**

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STATE OF UTAH,

Plaintiff,

v.

ARMSTRONG WORLD INDUSTRIES  
ASBESTOS PERSONAL INJURY  
SETTLEMENT TRUST, a Delaware  
corporation; BABCOCK & WILCOX  
ASBESTOS SETTLEMENT TRUST, a  
Delaware corporation; DII INDUSTRIES,  
LLC ASBESTOS PI TRUST, a Pennsylvania  
common law trust; and OWENS  
CORNING/FIBREBOARD  
ASBESTOS PERSONAL INJURY TRUST, a  
Delaware corporation,

Defendants.

**COMPLAINT**

Case No. \_\_\_\_\_

Judge \_\_\_\_\_

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Plaintiff State of Utah complains against Defendants Armstrong World Industries Asbestos Personal Injury Settlement Trust (“AWI”), Babcock & Wilcox Asbestos Settlement Trust (“B&W”), DII Industries, LLC Asbestos PI Trust (“DII”), and Owens Corning/Fibreboard Asbestos Personal Injury Trust (“Owens”) (collectively “Defendants”) and alleges as follows:

### **INTRODUCTION**

1. Utah brings this action under Utah Code § 26-20-14(16) to enforce civil investigative demands (“CIDs”) against Defendants. *See* Exhs. A-D (Cover Letters and Civil Investigative Demands).
2. Utah Code § 26-20-14 allows the Attorney General to take investigatory action if he has reason to believe that: a person has information or custody or control of documentary material relevant to the subject matter of an investigation of an alleged violation of the Utah False Claims Act, Utah Code Section 26 Chapter 20; a person is committing, has committed, or is about to commit a violation of the Utah False Claims Act; or it is in the public interest to conduct an investigation to ascertain whether a person is committing, has committed, or is about to commit a violation of the Utah False Claims Act.
3. Utah issued the CIDs on information and belief that abuse of asbestos trusts is occurring, and to investigate whether Defendants are engaged in mismanagement and abuse of asbestos trusts.
4. Plaintiffs’ attorneys across the country are using asbestos trusts to obtain significant monetary recovery for claims, even where they would fail in the tort system. The abuse injures states by improperly draining the trust assets, precluding future legitimate claimants

from relying on asbestos trusts, and leaving states with the high cost associated with asbestos-related disease. Further, there are questions surrounding the Medicare Secondary Payer statute regarding whether asbestos trust handlers are ensuring that medical assistance programs are being reimbursed for payments made from the trusts.

5. For these reasons, and in accordance with 42 U.S.C. § 1396a(a)(25)(A), Utah issued the CIDs as part of a joint Medicaid fraud investigation into possible mismanagement of asbestos trusts.
6. Currently over sixty companies have established trusts, including all the manufacturers of the most dangerous and dusty asbestos-containing products, and includes the Defendants in this action. These trusts have paid out roughly \$17 billion since 2008.
7. The trusts are overseen by Trust Advisory Committees (“TACs”) and Future Claims Representatives (“FCRs”). The TACs, comprised of asbestos plaintiffs’ attorneys largely from a handful of prominent firms, have outsized power over the billions of dollars in the trust system. They represent a large proportion of current asbestos claimants, and so vote on their behalf in approving the governing documents. Thus, the evidentiary requirements for claims—such as the claimant’s work history and proof of exposure—are primarily controlled by the same attorneys who collect contingency fees on millions of dollars of claims paid from a trust each year.
8. This power imbalance in the asbestos trust system creates problematic incentives for those running the trusts and results in lax requirements for claims.

9. Plaintiffs' attorneys across the country themselves have acknowledged that the trusts require far less than is needed to prove a case in the tort system.
10. The lack of oversight in the trust system compounds these issues. A late-1990s audit of the Manville Trust, for instance, revealed that forty-one percent of claimants to that trust had either no disease or a less severe condition than they had alleged in their claim forms, with false rate claims of sixty-three percent for the doctors claimants used most often.
11. Subsequent revelations have been equally troubling. When an Ohio court ordered a plaintiff's trust submissions disclosed in his tort case, the trust form showed that he had made very different statements regarding his work and exposure history to the trust than he had sworn to in his court case. *Kananian v. Lorrillard Tobacco Co.*, Case No. CV 442750, Cuyahoga Cty., Ohio (January 18, 2007). Similarly, in *Koeberle v. Alfa Laval* (No. 2009-0887 Pa. Commw. Ct.), the plaintiff denied exposure to insulation, boilers, and construction products in court, and won a \$4.5 million award against gasket, valve, and packing product manufacturers. Less than three months later, plaintiff's counsel filed trust claims alleging exposure to the very insulation, boiler, and construction products to which the claimant had so recently denied exposure, and the trusts compensated him for those claims. Likewise, the plaintiff in *Ginter v. Anderson Vreeland, Inc.* (No. 2010-4061, N.Y. Sup. Ct.) was compensated by thermal insulation trusts after denying exposure to those products at his trial.
12. These examples are not isolated and troublingly appear to be widespread and ongoing. The federal court overseeing the bankruptcy of Garlock Sealing Technologies, Inc. found

that some law firms had engaged in “suppression of evidence” when their clients were “unable to identify exposure in the tort case, but then later (and in some cases previously) were able to identify it in Trust claims.” *In re Garlock Sealing Techs, LLC*, 504 B.R. 71, 86 (Bankr. W.D.N.C. 2014).

13. Other very recent studies have analyzed specific and ongoing worrisome aspects of the asbestos trust system. A study of trust claims filed by plaintiffs who also sued Crane Company, a Wisconsin manufacturer of asbestos-containing products, showed that eighty percent of those trust claim forms involved exposures not disclosed to Crane in the previous tort case. A December 2015 study of claims released in the Garlock bankruptcy revealed that it was possible to make profoundly inconsistent exposure allegations in the tort and trust systems by delaying filing of trust claims until the conclusion of the court case. A February 2016 study, also using the *Garlock* claims as its sample set, showed serious discrepancies in the allegations made from trust to trust in twenty-one percent of the claims.
14. The record evidence from these cases suggests that asbestos trusts often are not sufficiently rigorous in scrutinizing their claims. Such possible lack of oversight also raises questions as to whether the trusts and claimants attorneys are ensuring that medical assistance programs are being reimbursed once the trust pays claimants who have also received compensation from those programs.
15. Pursuant to federal and state law, anyone who receives payments from a third party (such as a defendant or trust) must reimburse Medicare and Medicaid for any payments made by

those programs for the injury or the illness which was the basis of the claimant's recovery. 42 U.S.C. § 1395y(b)(2). Failure to promptly make reimbursements is a violation of the Medicare Secondary Payer Statute, *id.*, and also violates the federal False Claims Act in certain circumstances. 31 U.S.C. § 3729 *et seq.* In addition, under Utah's false claims statute, anyone who knowingly causes a false statement to be made or used in order to avoid the obligation to reimburse a medical assistance program may be liable for per-claim penalties and treble damages. Utah Code § 26-20-9.5(2)(c)(i).

16. Utah—as all states—is required to take all reasonable measures to ascertain the legal liability of third parties for health care services provided to Medicaid beneficiaries and has a responsibility to investigate and seek reimbursement for medical assistance program payments. To that end, Utah utilizes the powers vested by statute to initiate investigations and pursue civil and criminal actions to vindicate wrongs perpetrated by those against the states. While it seems beyond question that trust assets are being depleted much faster than anticipated, the scope of the harm caused by the claiming practices described in the preceding paragraphs has not yet been quantified.
17. While not assuming that Defendants recipients of the CIDs in fact have violated the law, Utah issued the CIDs in question in this case in accordance with the authority granted the Utah Attorney General in Utah Code § 26-20-14(1), (2) in order to scrutinize Defendant asbestos trusts for possible instances of waste, fraud, or abuse and in order to ensure that culpable entities, not Utah, sister states or blameless businesses, bear the high costs associated with asbestos-related diseases. Most importantly, oversight of trust practices

will help ensure that compensation remains available for future patients of asbestos-related diseases.

### **JURISDICTION AND VENUE**

18. This Court has jurisdiction over this action by direct operation of statute, Utah Code § 26-20-14(16), Utah Rule of Civil Procedure 54 (judgments), as well as pursuant to Utah Code §§ 78A-5-101, 102 (general jurisdiction and original jurisdiction).
19. This Court has specific personal jurisdiction over the Defendants under Utah Rule of Civil Procedure 17, as each Defendant-Trusts' alleged misconduct—fraud on all future Utah claimants and on the State itself—inextricably links the alleged misconduct to Utah. Furthermore, the Defendant-Trusts have paid Utah claimants. Consequently, Defendants have physically entered Utah in person or through an agent, goods, mail, or some other means, which are among the activities that constitute sufficient contacts for specific personal jurisdiction.
20. Venue is proper in this judicial district pursuant to Utah Code § 78B-3-307 because Defendants' alleged fraud on the state of Utah under investigation in the CIDs is within this judicial district.

### **PARTIES**

21. Plaintiff State of Utah is one of the fifty sovereign states forming the United States of America, having been admitted to the Union on January 4, 1896 on an equal footing with other states. Power to bring suit on behalf of Utah is partially vested in the Attorney General, who is responsible for seeing that the laws of Utah are faithfully executed and is

empowered by statute to investigate and prosecute legal proceedings to protect the interests of the state, including those detailed herein. Utah Const. art. VII, § 16; Utah Code § 67-5-1.

22. Defendant Armstrong World Industries Asbestos Personal Injury Settlement Trust (“AWI”) is a Delaware corporation with a mailing address of P.O. Box 1079, Wilmington, Delaware 19899-1079.
23. Defendant Babcock & Wilcox Asbestos Settlement Trust (“B&W”) is a Delaware corporation with a mailing address of P.O. Box 8890, Wilmington, Delaware 19899-8890.
24. Defendant DII Industries, LLC Asbestos PI Trust (“DII”) is a Pennsylvania common law trust, and is a “Qualified Settlement Fund” within the meaning of Treasury Department regulations issued pursuant to Section 468B of the Internal Revenue Code, with a mailing address of DII Industries, LLC Asbestos PI Trust, P.O. Box 821628, Dallas, Texas 75382.
25. Defendant Owens Corning/Fibreboard Asbestos Personal Injury Trust (“Owens”) is a Delaware corporation with a mailing address of Owens Corning Fibreboard Asbestos Personal Injury Trust, P.O. Box 1072, Wilmington, Delaware 19899-1072.

#### **STATEMENT OF FACTS**

26. Plaintiff mailed a CID to Defendant AWI pursuant to the authority granted under Utah Code § 26-20-14 in a letter dated December 12, 2016. *See* Exh. A.
27. Plaintiff mailed a CID to Defendant B&W pursuant to the authority granted under Utah Code § 26-20-14 in a letter dated December 12, 2016. *See* Exh. B.

28. Plaintiff mailed a CID to Defendant DII pursuant to the authority granted under Utah Code § 26-20-14 in a letter dated December 12, 2016. *See* Exh. C.
29. Plaintiff mailed a CID to Defendant Owens pursuant to the authority granted under Utah Code § 26-20-14 in a letter dated December 12, 2016. *See* Exh. D.
30. The terms of the CID issued to AWI required AWI to tender completed responses, verification(s), and document production by hand delivery or mail to the Office of the Utah Attorney General, Utah State Capitol Complex, 350 N. Main Street, Ste. 230, Salt Lake City, Utah 84114-2320, on the 28th Day of February, 2017 at 11:00 a.m.
31. The terms of the CID issued to B&W required B&W to tender completed responses, verification(s), and document production by hand delivery or mail to the Office of the Utah Attorney General, Utah State Capitol Complex, 350 N. Main Street, Ste. 230, Salt Lake City, Utah 84114-2320, on the 28th Day of February, 2017 at 11:00 a.m.
32. The terms of the CID issued to DII required DII to tender completed responses, verification(s), and document production by hand delivery or mail to the Office of the Utah Attorney General, Utah State Capitol Complex, 350 N. Main Street, Ste. 230, Salt Lake City, Utah 84114-2320, on the 28th Day of February, 2017 at 11:00 a.m.
33. The terms of the CID issued to Owens required Owens to tender completed responses, verification(s), and document production by hand delivery or mail to the Office of the Utah Attorney General, Utah State Capitol Complex, 350 N. Main Street, Ste. 230, Salt Lake City, Utah 84114-2320, on the 28th Day of February, 2017 at 11:00 a.m.
34. Defendant AWI has failed to comply with the CID issued by Utah.

35. Defendant B&W has failed to comply with the CID issued by Utah.
36. Defendant DII has failed to comply with the CID issued by Utah.
37. Defendant Owens has failed to comply with the CID issued by Utah.
38. Defendants AWI, B&W, DII, and Owens, through counsel, have informed the Office of the Utah Attorney General that they will not comply with the CIDs each Defendant received.
39. Utah Code § 26-20-14(17) provides: “The attorney general may file a complaint in district court for an order to enforce the civil investigative demand if [] a person fails to comply with a civil investigative demand.”
40. Each Defendant is a “person” under Utah Code § 26-20-14, as specified in Utah Code § 26-20-2(6).
41. Utah Code § 26-20-14(17) provides: “Failure to comply with a final order entered under Subsection (17) is punishable by contempt.”
42. Each Defendant has indicated that it will not comply with an order issued by this Court to enforce the CIDs issued and received by each Defendant.

**FIRST CAUSE OF ACTION**  
**Order to Enforce CIDs Pursuant to Utah Code § 26-20-14(17)**

43. Plaintiff incorporates the allegations contained in paragraphs 1-42 above.
44. Each Defendant has failed to comply with the terms of the CIDs each received.
45. Each Defendant has indicated it does not intend to comply with the CIDs each received.
46. Plaintiff is entitled to and seeks an order from this Court to enforce the CIDs issued to each Defendant.

**SECOND CAUSE OF ACTION**  
**Order of Contempt Pursuant to Utah Code § 26-20-14(18)**

47. Plaintiff incorporates the allegations contained in paragraphs 1-46 above.
48. Each Defendant has indicated that it will not comply with an enforcement order issued by this Court.
49. Plaintiff is entitled to and seeks an order of contempt from this Court against each Defendant.

**WHEREFORE**, having pled its causes of action against the Defendants, Plaintiff prays for judgment as follows:

- A. On Plaintiff's First Cause of Action, for judgment and order against each Defendant to enforce the terms of the CIDs issued each Defendant.
- B. On Plaintiff's Second Cause of Action, for judgment and order of contempt in the event Defendants do not comply with this Court's judgment and order of enforcement.
- C. For an award of Plaintiff's costs and attorneys' fees incurred herein.
- F. For other further relief as this Court deems just and equitable.

DATED this 7th day of March, 2017.

By: /s/ Parker Douglas  
Parker Douglas  
Chief Federal Deputy  
Office of the Utah Attorney General  
*Counsel for Plaintiff*

# EXHIBIT A

Cover Letter and Civil Investigative Demands to  
Armstrong World Industries Asbestos Personal Injury  
Settlement Trust

Dated December 13, 2016

December 13, 2016

Armstrong World Industries Asbestos Personal Injury Settlement Trust  
Attn: Trustee and Legal Department  
P.O. Box 1079  
Wilmington, DE 19899-1079

Dear Trustee:

For the reasons explained below, the undersigned Attorneys General support the attached civil investigative demand in order to learn more about how the asbestos trust is operating and to ensure that no fraud is being committed.

Congress adopted Section 524(g) of the Bankruptcy Code<sup>1</sup> in response to a rapid growth of asbestos litigation that began in the mid-1980s. As you are aware, this statute allows defendants in the asbestos tort system to declare bankruptcy and fund an asbestos personal injury bankruptcy trust. The debtor then emerges from bankruptcy free of its asbestos-related liabilities, which the trust assumes. Currently over 60 companies have established trusts, including all the manufacturers of the most dangerous and dusty asbestos-containing products. These trusts have paid out \$17 billion since 2008.

As chief legal officers for our respective states, we are concerned about potential abuse of the asbestos trusts. Plaintiffs' attorneys are using the trusts to obtain significant monetary recovery for claims, even where they would fail in the tort system. The abuse injures our states by improperly draining the trust assets, precluding future legitimate claimants from relying on the trust, and leaving states with the high cost associated with asbestos-related disease. Further, there are questions surrounding the Medicaid Secondary Payer statute and whether the trust handlers are ensuring that medical assistance programs are being reimbursed for payments made from the trust.

A recent court decision raises serious questions regarding whether the trusts have implemented any measures to address this lack of scrutiny over claims. The federal court overseeing the bankruptcy of Garlock Sealing Technologies, Inc. found that some law firms had engaged in "suppression of evidence" when their clients were

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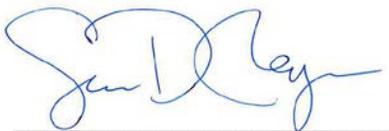
<sup>1</sup> 11 U.S.C. § 524(g).

“unable to identify exposure in the tort case, but then later (and in some cases previously) able to identify it in Trust claims.”<sup>2</sup>

This evidence suggests that the trusts are not sufficiently rigorous in scrutinizing their claims. This lack of oversight also raises questions as to whether the trusts and claimants attorneys are ensuring that state medical assistance programs are being reimbursed once the trust pays claimants who have also received compensation from those programs.

For these reasons, the undersigned Attorneys General support the attached civil investigative demand.

Sincerely,



SEAN D. REYES  
Utah Attorney General



BRAD D. SCHIMEL  
Wisconsin Attorney General



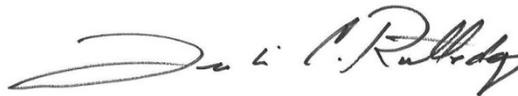
LUTHER STRANGE  
Alabama Attorney General



ALAN WILSON  
South Carolina Attorney General



JEFF LANDRY  
Louisiana Attorney General



LESLIE RUTLEDGE  
Arkansas Attorney General



ADAM LAXALT  
Nevada Attorney General



PATRICK MORRISEY  
West Virginia Attorney General



DEREK SCHMIDT  
Kansas Attorney General



TIM FOX  
Montana Attorney General



<sup>2</sup> *In re Garlock Sealing Techs, LLC*, 504 B.R. 71, 86 (Bankr. W.D.N.C. 2014).

BILL SCHUETTE  
Michigan Attorney General

DOUGLAS J. PETERSON  
Nebraska Attorney General

A handwritten signature in black ink, reading "Marty J. Jackley". The signature is written in a cursive style with a horizontal line underneath it.

MARTY J. JACKLEY  
South Dakota Attorney General

CID No. 1-AI

December 13, 2016

To: Armstrong World Industries Asbestos Personal Injury Settlement Trust  
P.O. Box 1079  
Wilmington, DE 19899-1079

SERVE: Attn: Trustee and Legal Department

**CIVIL INVESTIGATIVE DEMAND**

Pursuant to Utah Code § 26-20-14, the Attorney General for the State of Utah, in conjunction with Attorneys General from states of Wisconsin, as well as the Wisconsin Department of Agriculture, Trade and Consumer Protection hereby command YOU to respond in writing to the demands for information contained herein (and in the attachment hereto) and produce or make available for examination the information and documentary materials described below and in the attachment hereto.

Your responses and document production must be made in accordance with the enclosed instructions. Submit your completed responses, verification(s), and document production by hand delivery or mail to the Office of the Utah Attorney General, Utah State Capitol Complex, 350 N. Main Street, Ste. 230, Salt Lake City, Utah 84114-2320, on the 28th Day of February, 2017 at 11:00 a.m.

The Civil Investigative Demand (CID) is issued in connection with investigations by the Attorneys General and Consumer Protection agencies into possible consumer fraud and/or Medicaid fraud, operating pursuant to 42 U.S.C. § 1396a(25)(A), Utah Code § 26-20-14, Wis. Stat. §§ 49.49(4m), 49.485, 93.15, 93.16, 100.18, 100.20, regarding questions surrounding Medicaid Secondary Payer statutory compliance, proper use of asbestos trust management, and whether trust handlers are ensuring that medical assistance programs are being reimbursed for payments from trust, which implicate the consumer protection interests of participating states.

The investigation relates in part to data and other materials and information presented by and to Armstrong World Industries Asbestos Personal Injury Settlement Trust (AWI Trust) in connection with the actions and claims addressed in the course of litigation in the U.S. Bankruptcy Court for the Western District of North Carolina in *In re: Garlock Sealing Technologies, LLC*, as well as information released by the Court in connection with the same.

Please refer any questions you may have about this CID to Parker Douglas, Chief Federal Deputy and General Counsel, Office of the Utah Attorney General, 350 N. Main Street, Ste. 230, Salt Lake City, Utah 84114-2320, (801)538-9600.

This CID is issued at Salt Lake City, Utah, this 12th day of December, 2016.



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Parker Douglas  
General Counsel & Chief Federal Deputy  
Office of the Utah Attorney General

## **ATTACHMENT**

### **INSTRUCTIONS**

1. **Rules of construction.** These instructions and the below demands for information and requests to produce documents should be construed to seek the broadest amount of information from YOU. Consistent with this, and without limiting any other terms used herein:
  - a. The terms “any,” “and,” “and/or,” “each,” “every,” “each and every,” “other,” and “or” should be construed so as to seek the broadest possible information.  
  
The singular includes the plural and the masculine and feminine gender are interchangeable, so as to seek the broadest possible information.
  - b. Verb tense and number should be construed so as to seek the broadest possible information.
  - c. Unless expressly stated, the scope of each demand or request does not limit another, but YOU may, consistent with the below instructions, expressly reference YOUR response to another demand or request to avoid duplication.
  - d. Unless otherwise indicated, each paragraph of this Civil Investigative Demand (CID) relates to the period from January 1, 2007 through the present date. Any documents prepared during this time period, or before this time period but which relate thereto, are also to be produced.
  - e. The scope of this CID is intended to reach any of the described items which are stored by you by a third party organization, and/or stored at an offsite location.

2. The scope of this CID is to reach any and all data, documents and things in your possession, including those stored or residing on any computer, hard drive, desktop, laptop, file server, database server, email servers and other systems where data was transmitted or stored on purpose or as a result of transient use of a system or application in the course of day to day research or product processing work that is owned or contracted for by you or any of your officers, managers, employees, agents, board members, departments, divisions, programs, IT departments, contractors and other representatives.

**Instructions for responding to demands for information.**

- a. At the top of the responses, list RESPONDENT's name and the date of issuance of the Civil Investigative Demand to which the responses apply. Provide all responses and other information in a clearly legible manner.
- b. Provide a written response to each demand contained herein and indicate the demand to which each response applies. In providing a response, divulge all responsive information in YOUR possession, custody, or control. If after exercising due diligence YOU cannot answer a demand, or cannot answer it fully, state the answer to the fullest extent possible and also state why YOU are unable to answer it more fully.
- c. If RESPONDENT objects (on the basis of privilege or otherwise) to responding to a demand or portion(s) of a demand, within the time for responding to the demand state with YOUR response all objection(s) and their specific bases. Claims of privilege must be made in accordance with paragraph 4, below. If

RESPONDENT only objects to portion(s) of a demand, also provide to the fullest extent possible the answer to the portion(s) of the demand to which

RESPONDENT does not object.

- d. To avoid duplication, respondent may cross-reference its response to another demand in this Civil Investigative Demand. In addition, whenever the true, accurate, and complete answer to a demand is contained in one or more DOCUMENT(s), the DOCUMENT(s) may suffice as a response to the demand if the response so states, produces the DOCUMENT(s), and IDENTIFIES the DOCUMENT(s) (or portion(s) thereof) that specifically answer the demand.

### **3. Instructions for producing DOCUMENTS.**

- a. Firmly attach the DOCUMENTS to the responses or label them and submit them together with the responses. List the demand(s) or request(s) to produce to which each DOCUMENT is responsive.
- b. With respect to each document produced, identify the person producing the document and the paragraph number of the request in response to which production is being made.
- c. Each document request contemplates production of the entire document without redaction, abbreviation or deletion.
- d. For each request for production, produce all responsive DOCUMENTS in YOUR possession, custody, or control. This includes all drafts and other versions of responsive DOCUMENTS. If after exercising due diligence YOU cannot

produce all such DOCUMENTS, expressly state this in writing for the specific request, explain why this is the case and what steps YOU took to collect and produce responsive DOCUMENTS, and provide this statement to the Attorney General's Office within the time for responding to the requests to produce documents and with YOUR response to the Civil Investigative Demand.

- e. If RESPONDENT objects (on the basis of privilege or otherwise) to producing any responsive DOCUMENT(s), state in writing all objection(s) and their specific bases for the specific request, and provide this statement to the Attorney General's Office within the time for responding to the requests to produce documents and with YOUR response to the Civil Investigative Demand. Claims of privilege must be made in accordance with paragraph 5, below. Produce all responsive DOCUMENT(s) that RESPONDENT has not expressly objected to producing.
- f. In lieu of producing originals, photographic reproductions or electronic copies of DOCUMENTS may be provided, so long as such reproductions/copies are accurate, complete, and legible to the same degree as the originals, and provided that the originals from which the reproductions/copies are made are retained by their custodian(s) until the final disposition of this matter. If reproductions or copies are produced, consecutively number (i.e. Bates Number) all pages.
- g. Preferred formats for materials. Audio tapes are preferred in standard compact disc format; video tapes are preferred in standard DVD format; computer records are preferred on a CD or DVD usable in an IBM compatible personal computer

running DOS or Windows, and using a standard program such as Excel or Word, or including the application software needed to examine or manipulate the records or information.

- h. If any document requested was, but is no longer in your possession, subject to your control, or in existence, state for each such document:
  - 1. the type of document;
  - 2. whether it is missing, lost, has been destroyed, or has been transferred to the possession, custody, or control of other persons;
  - 3. the circumstances surrounding, and the authorization for, the disposition described in (b) above;
  - 4. the date or approximate date of the disposition described in (2) above;
  - 5. the identity of all persons having knowledge of the circumstances described in (c) above; and
  - 6. the identity of all persons having knowledge of the document's contents.
  
- i. If you have a document retention/destruction program, you are asked to suspend it immediately. Regardless of whether you have a document retention/destruction program, you should take precautions to ensure that no documents called for in this CID are inadvertently or intentionally destroyed.
  
- j. To the extent that any of the documents or data are stored in an encrypted fashion, the documents and data should be produced in such a way that the AGOs and other Offices of Consumer Protection can decrypt and read such documents or data.

**4. Instructions for claiming privilege.**

- a. When information is withheld from disclosure on a claim that it is privileged or subject to protection as trial-preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of each withheld DOCUMENT or COMMUNICATION that is sufficient to enable other parties to contest the claim. This shall include the name(s) of the author(s)/speaker(s) and recipient(s), a general description of its substance, all privilege(s) that are being claimed, and the specific basis for the claim of privilege.
- b. If you refuse to provide information in response to any of the attached demands or requests because it tends to prove you committed a crime, or may subject you to fine, penalty, or forfeiture, you should affirmatively state, in every such instance, that is the reason for your refusal to provide information.
- c. If a privilege or other protection can be protected by redacting rather than withholding a DOCUMENT, do not withhold the DOCUMENT entirely but rather redact and produce the redacted copy of the DOCUMENT. Provide information sufficient to justify the redaction, consistent with 5(a), *supra*.

**DEFINITIONS**

1. As used herein, the word Armstrong World Industries Asbestos Personal Injury Settlement Trust (“AWI Trust”), “you” and “your” mean the entity to which this CID is addressed, AWI Trust, and includes all the officers, managers, employees, agents, board members, departments, divisions, programs, IT departments, contractors and other representative of AWI Trust.

2. As used herein, the words “document” or “documents” mean an exact copy of the original and any copies of written, printed, typed, electronic, or graphic matter of any kind or nature, however produced or reproduced, any book, pamphlet, brochure, periodical, newspaper, letter, correspondence, memoranda, notice, facsimile, e-mail, manual, press release, telegram, report, study, handwritten note, working paper, chart, paper, graph, index, tape, data sheet, data processing card, or any other written, recorded, transcribed, punched, taped, filmed or graphic matter now in your possession, custody or control.

3. As used herein, the words “identify,” “identity,” and “identification” when used in reference to a natural or corporate person mean to state his, her or its full name, present or last known address, telephone number, last known position and business affiliation, and each of his or her positions during the relevant time period. When used in reference to any other type of person, these words mean to state the name of the entity, its present or last known address, and its telephone number.

4. When used in reference to a document kept or prepared in the course of business the words “identify” and “identification” mean to state its date, author, the type of document (e.g. letter, memorandum, telegram, chart, photograph, sound reproduction, etc.) or, if the above information is not available, some other means of identifying it; its present location; and the name of each of its present custodians.

5. As used herein, the words “person” and “persons” include any individual, firm, partnership, association, trust, joint venture, corporation, limited liability company, or other legal commercial identity.

6. As used herein, the word “relating” means to make a statement about, discuss, describe, reflect, identify, deal with, consist of, establish, comprise, list, or in any way pertain, in whole or in part, to the subject.

### **DOCUMENTS TO BE PRODUCED**

1. All written trust instruments or other documents creating the trust.
2. All settlements.
3. All claims submitted to the trust by any source.
4. All documents submitted to AWI Trust that constitute or are in any way related to a claim filed on behalf of Mr. Robert Wood [PIQ #91169, Table B].
5. All documents that constitute or are in any way related to correspondence, messages, e-mails sent or received by AWI Trust in connection with a claim filed on behalf of Mr. Robert Wood [PIQ #91169, Table B].
6. All documents submitted to AWI Trust that constitute or are in any way related to a claim filed on behalf of Mr. Joseph Mazur [Claim #10347906].
7. All documents that constitute or are in any way related to correspondence, messages, e-mails sent or received by AWI Trust in connection with a claim filed on behalf of Mr. Joseph Mazur [Claim #10347906].
8. All documents submitted to AWI Trust that constitute or are in any way related to a claim filed on behalf of Mr. John Koeberle [PIQ #98199, YOB: 1930].
9. All documents that constitute or are in any way related to correspondence, messages, e-mails sent or received by AWI Trust in connection with a claim filed on behalf of Mr. John Koeberle [PIQ #98199, YOB: 1930]

10. All documents submitted to AWI Trust that constitute or are in any way related to a claim filed on behalf of Mr. Chris Smith [Claim #11078934].

11. All documents that constitute or are in any way related to correspondence, messages, e-mails sent or received by AWI Trust in connection with a claim filed on behalf of Mr. Chris Smith [Claim #11078934].

### **INTERROGATORIES/DEMANDS FOR INFORMATION**

In accordance with the instructions set forth above, provide true, accurate, and complete written responses, verified under oath, to each demand set forth below.

1. Information released by the U.S. Bankruptcy Court for the Western District of North Carolina in *In re: Garlock Sealing Technologies, LLC* suggests that AWI Trust approved a claim filed on behalf of Mr. Robert Wood [PIQ #91169, Table B].
2. IDENTIFY all PERSONS employed by or working on behalf of AWI Trust who were aware of, handled, assisted with, or played a part in approving a claim filed on behalf of Mr. Robert Wood [PIQ #91169, Table B].
3. IDENTIFY all PERSONS whose names appeared on a claim filed on behalf of Mr. Robert Wood [PIQ #91169, Table B] as counsel for Mr. Wood.
4. IDENTIFY the current status of all claims with the AWI Trust filed on behalf of Mr. Robert Wood [PIQ #91169, Table B].
5. IDENTIFY the date final action was taken by AWI Trust on any claims filed on behalf of Mr. Robert Wood [PIQ #91169, Table B] that have been conclusively addressed by AWI Trust.
6. IDENTIFY any monies paid to Mr. Robert Wood [PIQ #91169, Table B] as a result of a claim submitted to AWI Trust on behalf of Mr. Wood [PIQ #91169, Table B].

7. IDENTIFY any other person or entity paid monies as a result of a claim submitted to AWI Trust on behalf of Mr. Robert Wood [PIQ #91169, Table B].
8. Researchers comparing claims disclosed in *In re Garlock, LLC* with allegations and statements made in state court lawsuits noted that Mr. Wood “could not recall the names of manufacturers of asbestos-containing insulation” when deposed. Was AWI Trust aware of this sworn testimony when it approved Mr. Wood’s claim?
9. Information released by the U.S. Bankruptcy Court for the Western District of North Carolina in *In re: Garlock Sealing Technologies, LLC* suggests that AWI Trust approved a claim filed on behalf of Mr. Joseph Mazur [Claim #10347906].
10. IDENTIFY all PERSONS employed by or working on behalf of AWI Trust who were aware of, handled, assisted with, or played a part in approving a claim filed on behalf of Mr. Joseph Mazur [Claim #10347906].
11. IDENTIFY all PERSONS whose names appeared on a claim filed on behalf of Mr. Joseph Mazur [Claim #10347906] as counsel for Joseph Mazur [Claim #10347906].
12. IDENTIFY the current status of all claims with the AWI Trust filed on behalf of Mr. Joseph Mazur [Claim #10347906].
13. IDENTIFY the date final action was taken by AWI Trust on any claims filed on behalf of Mr. Joseph Mazur [Claim #10347906] that have been conclusively addressed by AWI Trust.
14. IDENTIFY any monies paid to Mr. Joseph Mazur [Claim #10347906] as a result of a claim submitted to AWI Trust on behalf of Mr. Joseph Mazur [Claim #10347906].
15. IDENTIFY any other person or entity paid monies as a result of a claim submitted to AWI Trust on behalf of Mr. Joseph Mazur [Claim #10347906].

16. Information released by the U.S. Bankruptcy for the Western District of North Carolina in *In re: Garlock Sealing Technologies, LLC* suggests inconsistent claims were filed with the AWI Trust and NGC Bodily Injury Trust on behalf of Mr. Joseph Mazur. An AWI claim [#10347906] filed in August 2010 describes Mr. Mazur's exposure "in occupational terms" as a "tile layer." An NGC Bodily Injury Trust claim "described the same work as on his personal residence." Was AWI Trust aware of the exposure allegations presented to NGC Bodily Injury Trust when it considered claim #10347906?
17. Information released by the U.S. Bankruptcy Court for the Western District of North Carolina in *In re: Garlock Sealing Technologies, LLC* suggests that AWI Trust approved a claim filed on behalf of Mr. John Koeberle [PIQ #98199, YOB: 1930].
18. IDENTIFY all PERSONS employed by or working on behalf of AWI Trust who were aware of, handled, assisted with, or played a part in approving a claim filed on behalf of Mr. Koeberle [PIQ #98199].
19. IDENTIFY all PERSONS whose names appeared on a claim filed on behalf of Mr. Koeberle [PIQ #98199] as counsel for Mr. Koeberle [PIQ #98199].
20. IDENTIFY the current status of all claims with the AWI Trust filed on behalf of Mr. Koeberle [PIQ #98199].
21. IDENTIFY the date final action was taken by AWI Trust on any claims filed on behalf of Mr. Koeberle [PIQ #98199] that have been conclusively addressed by AWI Trust.
22. IDENTIFY any monies paid to Mr. Koeberle [PIQ #98199] as a result of a claim submitted to AWI Trust on behalf of Mr. Koeberle [PIQ #98199].
23. IDENTIFY any other person or entity paid monies as a result of a claim submitted to AWI Trust on behalf of Mr. Koeberle [PIQ #98199].

24. Information released by the U.S. Bankruptcy Court for the Western District of North Carolina in *In re: Garlock Sealing Technologies, LLC* suggests that AWI Trust approved a claim filed on behalf of Mr. Chris Smith [Claim #11078934].
25. IDENTIFY all PERSONS employed by or working on behalf of AWI Trust who were aware of, handled, assisted with, or played a part in approving a claim filed on behalf of Mr. Chris Smith [Claim #11078934].
26. IDENTIFY all PERSONS whose names appeared on a claim filed on behalf of Mr. Chris Smith [Claim #11078934] as counsel for Mr. Chris Smith [Claim #11078934].
27. IDENTIFY the current status of all claims with the AWI Trust filed on behalf of Mr. Chris Smith [Claim #11078934].
28. IDENTIFY the date final action was taken by AWI Trust on any claims filed on behalf of Mr. Chris Smith [Claim #11078934] that have been conclusively addressed by AWI Trust.
29. IDENTIFY any monies paid to Mr. Chris Smith [Claim #11078934] as a result of a claim submitted to AWI Trust on behalf of Mr. Chris Smith [Claim #11078934].
30. IDENTIFY any other person or entity paid monies as a result of a claim submitted to AWI Trust on behalf of Mr. Chris Smith [Claim #11078934].
31. Information released by the U.S. Bankruptcy for the Western District of North Carolina in *In re: Garlock Sealing Technologies, LLC* suggests inconsistent claims were filed with various trust on behalf of Mr. Chris Smith. A claim with AWI Trust [Claim #11078934] “stated that he was a laborer at a powerhouse in New York in 1963-65.” Claims filed with three other trusts “stated that he worked as a laborer at Austin & Wyrosdisk in

Hollywood, FL from 1961-1975.” Was AWI Trust aware of the work histories provided to other trusts when it considered the claim?

32. IDENTIFY all documents reviewed in responding to this Civil Investigative Demand, Requests for Production of Documents, and Interrogatories.
33. IDENTIFY all individuals who prepared or assisted in the preparation of the responses to this Civil Investigative Demand, Requests for Production of Documents, and Interrogatories, identifying for each such individual the Civil Investigative Demand Number, Interrogatory, or Request for Document with which he or she assisted.
34. IDENTIFY by name, address and telephone number each and every domestic and foreign bank and/or financial institution in which AWI Trust has an interest and provide the account number, type of account, and account balance from January 1, 2007 to present. In addition, identify the record owner or title of the account.
35. Does AWI Trust have any other assets or interests in other assets, either actual or contingent? If so, describe the assets in detail, identify the location of the asset, and state the current fair market value of each such asset.
36. IDENTIFY all current and former Trustees of the AWI Trust and for each, identify his or her name, business address, employer, and telephone number. If any current or former Trustee is a corporation or other business organization (*e.g.*, limited liability company), identify its name, where it was organized, registered agent, and business address.
37. IDENTIFY all current and former beneficiaries of the AWI Trust and for each, identify his or her name, address, employer, and telephone number. For all beneficiaries who are represented by counsel, identify the counsel and his or her firm, business address, and telephone number.

38. IDENTIFY all current and former grantors, settlers, or donors of the AWI Trust and for each, identify his or her name, business address, employer, and telephone number. If any current or former grantors, settlers, or donors is a corporation or other business organization (*e.g.*, limited liability company), identify its name, where it was organized, registered agent, and business address.
39. IDENTIFY all natural persons from whom DOCUMENTS were collected for possible production by RESPONDENT in response to this Civil Investigative Demand (i.e. “custodians”).
40. For each custodian IDENTIFIED in the previous demand, state whether the following sources of information were (i) collected for review and production, (ii) confirmed not to exist, or (iii) neither collected nor confirmed not to exist for that custodian:
  - a. paper DOCUMENTS;
  - b. email messages, including those stored locally or on servers;
  - c. text messages;
  - d. Messaging and social media data;
  - e. voicemails and answering machine messages; and
  - f. other electronically stored information, including from work computer(s), personal computer(s), thumb drives or other media, external hard drives, network storage, or the cloud;
41. Describe the steps YOU took to collect DOCUMENTS from backup tapes, network storage devices, servers, and the cloud for production in response to this Civil Investigative Demand.
42. Describe the steps YOU took to collect any paper DOCUMENTS stored in a central

filing system or other storage for production in response to this Civil Investigative Demand.

43. To the best of YOUR knowledge and belief, are YOU producing, or otherwise making available for examination with YOUR response to this Civil Investigative Demand all non-privileged, responsive DOCUMENTS to categories 1 - 15 of the Requests to Produce Documents, below, that are in YOUR possession, custody, or control?

**COMPLETE AND HAVE NOTARIZED THE FOLLOWING VERIFICATION FORM. IF A VERIFICATION ONLY APPLIES TO CERTAIN RESPONSES, COMPLETE AND HAVE NOTARIZED ADDITIONAL VERIFICATION(S) SO THAT ALL OF THE RESPONSES ARE SUPPORTED BY A VERIFICATION. SUBMIT THE VERIFICATION(S) WITH THE RESPONSES.**

Verification of Response

STATE OF \_\_\_\_\_ )  
 ) §:  
COUNTY OF \_\_\_\_\_ )

The undersigned, being first placed under oath, deposes and says the following. He/she makes this verification on behalf of him/herself (if he/she is the person to whom the Civil Investigative Demand is directed) or on behalf of the entity to which the Civil Investigative Demand is directed. If responding on behalf of an entity, he/she is authorized to do so.

He/she has read the Civil Investigative Demand, and [check which is appropriate]

\_\_\_ the responses to all of the demands or

\_\_\_ the responses to demand(s) \_\_\_\_\_ (list the number(s) of the demands to which this verification applies and submit additional verification(s) so that all answers are supported by a verification)

and the facts and other matters set forth in the those responses (other than objections, claims of privilege, and purely legal contentions) are true, accurate, and complete to the best of his/her knowledge and belief.

Signature of Verifying Party: \_\_\_\_\_

Name of Verifying Party: \_\_\_\_\_

Title of Verifying Party (if responding for an entity): \_\_\_\_\_

Subscribed and sworn/affirmed before me this \_\_\_\_ day of \_\_\_\_\_, 201\_\_.

\_\_\_\_\_  
Notary Public

# EXHIBIT B

Cover Letter and Civil Investigative Demands to  
Babcock & Wilcox Asbestos Settlement Trust

Dated December 13, 2016

December 13, 2016

Babcock & Wilcox Asbestos Settlement Trust  
Attn: Trustee and Legal Department  
P.O. Box 8890  
Wilmington, Delaware 19899-8890

Dear Trustee:

For the reasons explained below, the undersigned Attorneys General support the attached civil investigative demand in order to learn more about how the asbestos trust is operating and to ensure that no fraud is being committed.

Congress adopted Section 524(g) of the Bankruptcy Code<sup>1</sup> in response to a rapid growth of asbestos litigation that began in the mid-1980s. As you are aware, this statute allows defendants in the asbestos tort system to declare bankruptcy and fund an asbestos personal injury bankruptcy trust. The debtor then emerges from bankruptcy free of its asbestos-related liabilities, which the trust assumes. Currently over 60 companies have established trusts, including all the manufacturers of the most dangerous and dusty asbestos-containing products. These trusts have paid out \$17 billion since 2008.

As chief legal officers for our respective states, we are concerned about potential abuse of the asbestos trusts. Plaintiffs' attorneys are using the trusts to obtain significant monetary recovery for claims, even where they would fail in the tort system. The abuse injures our states by improperly draining the trust assets, precluding future legitimate claimants from relying on the trust, and leaving states with the high cost associated with asbestos-related disease. Further, there are questions surrounding the Medicaid Secondary Payer statute and whether the trust handlers are ensuring that medical assistance programs are being reimbursed for payments made from the trust.

A recent court decision raises serious questions regarding whether the trusts have implemented any measures to address this lack of scrutiny over claims. The federal court overseeing the bankruptcy of Garlock Sealing Technologies, Inc. found

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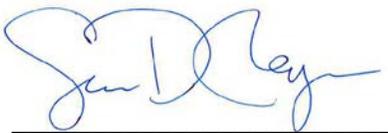
<sup>1</sup> 11 U.S.C. § 524(g).

that some law firms had engaged in “suppression of evidence” when their clients were “unable to identify exposure in the tort case, but then later (and in some cases previously) able to identify it in Trust claims.”<sup>2</sup>

This evidence suggests that the trusts are not sufficiently rigorous in scrutinizing their claims. This lack of oversight also raises questions as to whether the trusts and claimants attorneys are ensuring that state medical assistance programs are being reimbursed once the trust pays claimants who have also received compensation from those programs.

For these reasons, the undersigned Attorneys General support the attached civil investigative demand.

Sincerely,



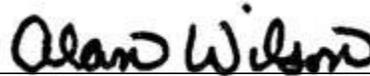
SEAN D. REYES  
Utah Attorney General



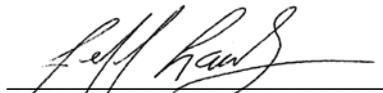
BRAD D. SCHIMEL  
Wisconsin Attorney General



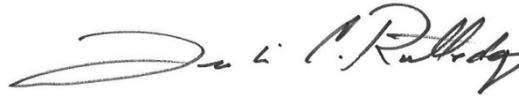
LUTHER STRANGE  
Alabama Attorney General



ALAN WILSON  
South Carolina Attorney General



JEFF LANDRY  
Louisiana Attorney General



LESLIE RUTLEDGE  
Arkansas Attorney General



ADAM LAXALT  
Nevada Attorney General



PATRICK MORRISEY  
West Virginia Attorney General



DEREK SCHMIDT  
Kansas Attorney General



TIM FOX  
Montana Attorney General

<sup>2</sup> *In re Garlock Sealing Techs, LLC*, 504 B.R. 71, 86 (Bankr. W.D.N.C. 2014).



BILL SCHUETTE  
Michigan Attorney General



DOUGLAS J. PETERSON  
Nebraska Attorney General



MARTY J. JACKLEY  
South Dakota Attorney General

CID No. 1-A4

December 13, 2016

To: Babcock & Wilcox Asbestos Settlement Trust  
P.O. Box 8890  
Wilmington, Delaware 19899-8890

SERVE: Trustee and Legal Department

**CIVIL INVESTIGATIVE DEMAND**

Pursuant to Utah Code § 26-20-14, the Attorney General for the State of Utah, in conjunction with Attorneys General from states of Wisconsin, as well as the Wisconsin Department of Agriculture, Trade and Consumer Protection, hereby command YOU to respond in writing to the demands for information contained herein (and in the attachment hereto) and produce or make available for examination the information and documentary materials described below and in the attachment hereto.

Your responses and document production must be made in accordance with the enclosed instructions. Submit your completed responses, verification(s), and document production by hand delivery or mail to the Office of the Utah Attorney General, Utah State Capitol Complex, 350 N. Main Street, Ste. 230, Salt Lake City, Utah 84114-2320, on the 28th of February, 2017 at 11:00 a.m.

The Civil Investigative Demand (CID) is issued in connection with investigations by the Attorneys General and Consumer Protection agencies into possible consumer fraud and/or Medicaid fraud, operating pursuant to 42 U.S.C. § 1396a(25)(A), Utah Code § 26-20-14, Wis. Stat. §§ 49.49(4m), 49.485, 93.15, 93.16, 100.18, 100.20 regarding questions surrounding Medicaid Secondary Payer statutory compliance, proper use of asbestos trust management, and whether trust handlers are ensuring that medical assistance programs are being reimbursed for payments from trust, which implicate the consumer protection interests of participating states.

The investigation relates in part to data and other materials and information presented by and to Babcock & Wilcox Asbestos Settlement Trust (BW Trust) in connection with the actions and claims addressed in the course of litigation in the U.S. Bankruptcy Court for the Western District of North Carolina in *In re: Garlock Sealing Technologies, LLC*, as well as information released by the Court in connection with the same.

Please refer any questions you may have about this CID to Parker Douglas, Chief Federal Deputy and General Counsel, Office of the Utah Attorney General, 350 N. Main Street, Ste. 230, Salt Lake City, Utah 84114-2320, (801)538-9600.

This CID is issued at Salt Lake City, Utah, this 12th day of December, 2016.



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Parker Douglas  
General Counsel & Chief Federal Deputy  
Office of the Utah Attorney General

## **ATTACHMENT**

### **INSTRUCTIONS**

1. **Rules of construction.** These instructions and the below demands for information and requests to produce documents should be construed to seek the broadest amount of information from YOU. Consistent with this, and without limiting any other terms used herein:
  - a. The terms “any,” “and,” “and/or,” “each,” “every,” “each and every,” “other,” and “or” should be construed so as to seek the broadest possible information.  
  
The singular includes the plural and the masculine and feminine gender are interchangeable, so as to seek the broadest possible information.
  - b. Verb tense and number should be construed so as to seek the broadest possible information.
  - c. Unless expressly stated, the scope of each demand or request does not limit another, but YOU may, consistent with the below instructions, expressly reference YOUR response to another demand or request to avoid duplication.
  - d. Unless otherwise indicated, each paragraph of this Civil Investigative Demand (CID) relates to the period from January, 2007 through the present date. Any documents prepared during this time period, or before this time period but which relate thereto, are also to be produced.
  - e. The scope of this CID is intended to reach any of the described items which are stored by you by a third party organization, and/or stored at an offsite location.

2. The scope of this CID is to reach any and all data, documents and things in your possession, including those stored or residing on any computer, hard drive, desktop, laptop, file server, database server, email servers and other systems where data was transmitted or stored on purpose or as a result of transient use of a system or application in the course of day to day research or product processing work that is owned or contracted for by you or any of your officers, managers, employees, agents, board members, departments, divisions, programs, IT departments, contractors and other representatives.

**Instructions for responding to demands for information.**

- a. At the top of the responses, list RESPONDENT's name and the date of issuance of the Civil Investigative Demand to which the responses apply. Provide all responses and other information in a clearly legible manner.
- b. Provide a written response to each demand contained herein and indicate the demand to which each response applies. In providing a response, divulge all responsive information in YOUR possession, custody, or control. If after exercising due diligence YOU cannot answer a demand, or cannot answer it fully, state the answer to the fullest extent possible and also state why YOU are unable to answer it more fully.
- c. If RESPONDENT objects (on the basis of privilege or otherwise) to responding to a demand or portion(s) of a demand, within the time for responding to the demand state with YOUR response all objection(s) and their specific bases. Claims of privilege must be made in accordance with paragraph 4, below. If

RESPONDENT only objects to portion(s) of a demand, also provide to the fullest extent possible the answer to the portion(s) of the demand to which

RESPONDENT does not object.

- d. To avoid duplication, respondent may cross-reference its response to another demand in this Civil Investigative Demand. In addition, whenever the true, accurate, and complete answer to a demand is contained in one or more DOCUMENT(s), the DOCUMENT(s) may suffice as a response to the demand if the response so states, produces the DOCUMENT(s), and IDENTIFIES the DOCUMENT(s) (or portion(s) thereof) that specifically answer the demand.

### **3. Instructions for producing DOCUMENTS.**

- a. Firmly attach the DOCUMENTS to the responses or label them and submit them together with the responses. List the demand(s) or request(s) to produce to which each DOCUMENT is responsive.
- b. With respect to each document produced, identify the person producing the document and the paragraph number of the request in response to which production is being made.
- c. Each document request contemplates production of the entire document without redaction, abbreviation or deletion.
- d. For each request for production, produce all responsive DOCUMENTS in YOUR possession, custody, or control. This includes all drafts and other versions of responsive DOCUMENTS. If after exercising due diligence YOU cannot

produce all such DOCUMENTS, expressly state this in writing for the specific request, explain why this is the case and what steps YOU took to collect and produce responsive DOCUMENTS, and provide this statement to the Attorney General's Office within the time for responding to the requests to produce documents and with YOUR response to the Civil Investigative Demand.

- e. If RESPONDENT objects (on the basis of privilege or otherwise) to producing any responsive DOCUMENT(s), state in writing all objection(s) and their specific bases for the specific request, and provide this statement to the Attorney General's Office within the time for responding to the requests to produce documents and with YOUR response to the Civil Investigative Demand. Claims of privilege must be made in accordance with paragraph 5, below. Produce all responsive DOCUMENT(s) that RESPONDENT has not expressly objected to producing.
- f. In lieu of producing originals, photographic reproductions or electronic copies of DOCUMENTS may be provided, so long as such reproductions/copies are accurate, complete, and legible to the same degree as the originals, and provided that the originals from which the reproductions/copies are made are retained by their custodian(s) until the final disposition of this matter. If reproductions or copies are produced, consecutively number (i.e. Bates Number) all pages.
- g. Preferred formats for materials. Audio tapes are preferred in standard compact disc format; video tapes are preferred in standard DVD format; computer records are preferred on a CD or DVD usable in an IBM compatible personal computer

running DOS or Windows, and using a standard program such as Excel or Word, or including the application software needed to examine or manipulate the records or information.

- h. If any document requested was, but is no longer in your possession, subject to your control, or in existence, state for each such document:
  - 1. the type of document;
  - 2. whether it is missing, lost, has been destroyed, or has been transferred to the possession, custody, or control of other persons;
  - 3. the circumstances surrounding, and the authorization for, the disposition described in (b) above;
  - 4. the date or approximate date of the disposition described in (2) above;
  - 5. the identity of all persons having knowledge of the circumstances described in (c) above; and
  - 6. the identity of all persons having knowledge of the document's contents.
  
- i. If you have a document retention/destruction program, you are asked to suspend it immediately. Regardless of whether you have a document retention/destruction program, you should take precautions to ensure that no documents called for in this CID are inadvertently or intentionally destroyed.
  
- j. To the extent that any of the documents or data are stored in an encrypted fashion, the documents and data should be produced in such a way that the AGOs and other Offices of Consumer Protection can decrypt and read such documents or data.

**4. Instructions for claiming privilege.**

- a. When information is withheld from disclosure on a claim that it is privileged or subject to protection as trial-preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of each withheld DOCUMENT or COMMUNICATION that is sufficient to enable other parties to contest the claim. This shall include the name(s) of the author(s)/speaker(s) and recipient(s), a general description of its substance, all privilege(s) that are being claimed, and the specific basis for the claim of privilege.
- b. If you refuse to provide information in response to any of the attached demands or requests because it tends to prove you committed a crime, or may subject you to fine, penalty, or forfeiture, you should affirmatively state, in every such instance, that is the reason for your refusal to provide information.
- c. If a privilege or other protection can be protected by redacting rather than withholding a DOCUMENT, do not withhold the DOCUMENT entirely but rather redact and produce the redacted copy of the DOCUMENT. Provide information sufficient to justify the redaction, consistent with 5(a), *supra*.

**DEFINITIONS**

1. As used herein, the word Babcock & Wilcox Asbestos Settlement Trust (BW Trust), “you” and “your” mean the entity to which this CID is addressed BW Trust, and includes all the officers, managers, employees, agents, board members, departments, divisions, programs, IT departments, contractors and other representative of BW Trust.

2. As used herein, the words “document” or “documents” mean an exact copy of the original and any copies of written, printed, typed, electronic, or graphic matter of any kind or nature, however produced or reproduced, any book, pamphlet, brochure, periodical, newspaper, letter, correspondence, memoranda, notice, facsimile, e-mail, manual, press release, telegram, report, study, handwritten note, working paper, chart, paper, graph, index, tape, data sheet, data processing card, or any other written, recorded, transcribed, punched, taped, filmed or graphic matter now in your possession, custody or control.

3. As used herein, the words “identify,” “identity,” and “identification” when used in reference to a natural or corporate person mean to state his, her or its full name, present or last known address, telephone number, last known position and business affiliation, and each of his or her positions during the relevant time period. When used in reference to any other type of person, these words mean to state the name of the entity, its present or last known address, and its telephone number.

4. When used in reference to a document kept or prepared in the course of business the words “identify” and “identification” mean to state its date, author, the type of document (e.g. letter, memorandum, telegram, chart, photograph, sound reproduction, etc.) or, if the above information is not available, some other means of identifying it; its present location; and the name of each of its present custodians.

5. As used herein, the words “person” and “persons” include any individual, firm, partnership, association, trust, joint venture, corporation, limited liability company, or other legal commercial identity.

6. As used herein, the word “relating” means to make a statement about, discuss, describe, reflect, identify, deal with, consist of, establish, comprise, list, or in any way pertain, in whole or in part, to the subject.

### **DOCUMENTS TO BE PRODUCED**

1. All written trust instruments or other documents creating the trust.
2. All settlements.
3. All claims submitted to the trust by any source.
4. All documents submitted to BW Trust that constitute or are in any way related to a claim filed on behalf of Mr. Robert Wood [PIQ #91169, Table B].
5. All documents that constitute or are in any way related to correspondence, messages, e-mails sent or received by BW Trust in connection with a claim filed on behalf of Mr. Robert Wood [PIQ #91169, Table B].
6. All documents submitted to BW Trust that constitute or are in any way related to a claim filed on behalf of Mr. James Ginter [PIQ #88060, Table B].
7. All documents that constitute or are in any way related to correspondence, messages, e-mails sent or received by BW Trust in connection with a claim filed on behalf of Mr. James Ginter [PIQ #88060, Table B].
8. All documents submitted to BW Trust that constitute or are in any way related to a claim filed on behalf of Mr. John Koeberle [PIQ #98199, YOB: 1930].
9. All documents submitted to BW Trust that constitute or are in any way related to a claim filed on behalf of Mr. John Koeberle [PIQ #98199, YOB: 1930].
10. All documents submitted to BW Trust that constitute or are in any way related to a claim filed on behalf of Mr. Chris Smith [Claim #11078934].

11. All documents that constitute or are in any way related to correspondence, messages, e-mails sent or received by BW Trust in connection with a claim filed on behalf of Mr. Chris Smith [Claim #11078934].

**INTERROGATORIES/DEMANDS FOR INFORMATION**

In accordance with the instructions set forth above, provide true, accurate, and complete written responses, verified under oath, to each demand set forth below.

1. Information released by the U.S. Bankruptcy Court for the Western District of North Carolina in *In re: Garlock Sealing Technologies, LLC* suggests that BW Trust approved a claim filed on behalf of Mr. Robert Wood [PIQ #91169, Table B].
2. IDENTIFY all PERSONS employed by or working on behalf of BW Trust who were aware of, handled, assisted with, or played a part in approving a claim filed on behalf of Mr. Robert Wood [PIQ #91169, Table B].
3. IDENTIFY all PERSONS whose names appeared on a claim filed on behalf of Mr. Robert Wood [PIQ #91169, Table B] as counsel for Mr. Wood.
4. IDENTIFY the current status of all claims with the BW Trust filed on behalf of Mr. Robert Wood [PIQ #91169, Table B].
5. IDENTIFY the date final action was taken by BW Trust on any claims filed on behalf of Mr. Robert Wood [PIQ #91169, Table B] that have been conclusively addressed by BW Trust.
6. IDENTIFY any monies paid to Mr. Robert Wood [PIQ #91169, Table B] as a result of a claim submitted to BW Trust on behalf of Mr. Wood [PIQ #91169, Table B].
7. IDENTIFY any other person or entity paid monies as a result of a claim submitted to BW Trust on behalf of Mr. Robert Wood [PIQ #91169, Table B].

8. Researchers comparing claims disclosed in *In re Garlock, LLC* with allegations and statements made in state court lawsuits noted that Mr. Wood “could not recall the names of manufacturers of asbestos-containing insulation” when deposed. Was BW Trust aware of this sworn testimony when it approved Mr. Wood’s claim?
9. Information released by the U.S. Bankruptcy Court for the Western District of North Carolina in *In re: Garlock Sealing Technologies, LLC* suggests that BW Trust approved a claim filed on behalf of Mr. James Ginter [PIQ #88060, Table B].
10. IDENTIFY all PERSONS employed by or working on behalf of BW Trust who were aware of, handled, assisted with, or played a part in approving a claim filed on behalf of Mr. James Ginter [PIQ #88060, Table B].
11. IDENTIFY all PERSONS whose names appeared on a claim filed on behalf of Mr. James Ginter [PIQ #88060, Table B] as counsel for Mr. Ginter [PIQ #88060, Table B].
12. IDENTIFY the current status of all claims with the BWTrust filed on behalf of Mr. James Ginter [PIQ #88060, Table B].
13. IDENTIFY the date final action was taken by BW Trust on any claims filed on behalf of Mr. James Ginter [PIQ #88060, Table B] that have been conclusively addressed by BW Trust.
14. IDENTIFY any monies paid to Mr. James Ginter [PIQ #88060, Table B] as a result of a claim submitted to BW Trust on behalf of Mr. Ginter [PIQ #88060, Table B].
15. IDENTIFY any other person or entity paid monies as a result of a claim submitted to BW Trust on behalf of Mr. James Ginter [PIQ #88060, Table B].
16. During a state court trial, Mr. Ginter’s counsel maintained that his only exposure to amosite asbestos and asbestos-containing insulation occurred on Allied Chemical facility.

Mr. Ginter's counsel subsequently filed claims supported by his work history at a different job site. Was BW Trust aware of the arguments made in Mr. Ginter's state court lawsuit when it considered the claim?

17. Information released by the U.S. Bankruptcy Court for the Western District of North Carolina in *In re: Garlock Sealing Technologies, LLC* suggests that BWTrust approved a claim filed on behalf of Mr. John Koeberle [PIQ #98199, YOB: 1930].
18. IDENTIFY all PERSONS employed by or working on behalf of BW Trust who were aware of, handled, assisted with, or played a part in approving a claim filed on behalf of Mr. John Koeberle [PIQ #98199, YOB: 1930].
19. IDENTIFY all PERSONS whose names appeared on a claim filed on behalf of Mr. John Koeberle [PIQ #98199, YOB: 1930] as counsel for Mr. Koeberle [PIQ #98199, YOB: 1930].
20. IDENTIFY the current status of all claims with the BWTrust filed on behalf of Mr. Mr. John Koeberle [PIQ #98199, YOB: 1930].
21. IDENTIFY the date final action was taken by BW Trust on any claims filed on behalf of Mr. John Koeberle [PIQ #98199, YOB: 1930] that have been conclusively addressed by BWTrust.
22. IDENTIFY any monies paid to Mr. John Koeberle [PIQ #98199, YOB: 1930] as a result of a claim submitted to BW Trust on behalf of Mr. Koeberle [PIQ #98199, YOB: 1930].
23. IDENTIFY any other person or entity paid monies as a result of a claim submitted to BW Trust on behalf of Mr. John Koeberle [PIQ #98199, YOB: 1930].
24. Researchers comparing claims disclosed in *In re Garlock, LLC* with allegations and statements made in state court lawsuits noted that Mr. Koeberle "explicitly testified under

oath that he was not exposed to the products of particular trust predecessor companies” and that “in direct contradiction of Koeberle’s own testimony, the Garlock data show that bankruptcy trust claims were filed on Koeberle’s behalf against trust that indemnify ... [Babcock & Wilcox].” Was BW Trust aware of Mr. Koeberle’s sworn testimony when it considered the claim?

25. Information released by the U.S. Bankruptcy Court for the Western District of North Carolina in *In re: Garlock Sealing Technologies, LLC* suggests that BW Trust approved a claim filed on behalf of Mr. Chris Smith [Claim #11078934].
26. IDENTIFY all PERSONS employed by or working on behalf of BW Trust who were aware of, handled, assisted with, or played a part in approving a claim filed on behalf of Mr. Chris Smith [Claim #11078934].
27. IDENTIFY all PERSONS whose names appeared on a claim filed on behalf of Mr. Chris Smith [Claim #11078934] as counsel for Mr. Chris Smith [Claim #11078934].
28. IDENTIFY the current status of all claims with the BW Trust filed on behalf of Mr. Chris Smith [Claim #11078934].
29. IDENTIFY the date final action was taken by BW Trust on any claims filed on behalf of Mr. Chris Smith [Claim #11078934] that have been conclusively addressed by BW Trust.
30. IDENTIFY any monies paid to Mr. Chris Smith [Claim #11078934] as a result of a claim submitted to BW Trust on behalf of Mr. Chris Smith [Claim #11078934].
31. IDENTIFY any other person or entity paid monies as a result of a claim submitted to BW Trust on behalf of Mr. Chris Smith [Claim #11078934].
32. Information released by the U.S. Bankruptcy for the Western District of North Carolina in *In re: Garlock Sealing Technologies, LLC* suggests inconsistent claims were filed with

various trust on behalf of Mr. Chris Smith. A claim with BW Trust [Claim #11078934] “stated that he was a laborer at a powerhouse in New York in 1963-65.” Claims filed with three other trusts “stated that he worked as a laborer at Austin & Wyrosdisk in Hollywood, FL from 1961-1975.” Was BW Trust aware of the work histories provided to other trusts when it considered the claim?

33. IDENTIFY all documents reviewed in responding to this Civil Investigative Demand, Requests for Production of Documents, and Interrogatories.
34. IDENTIFY all individuals who prepared or assisted in the preparation of the responses to this Civil Investigative Demand, Requests for Production of Documents, and Interrogatories, identifying for each such individual the Civil Investigative Demand Number, Interrogatory, or Request for Document with which he or she assisted.
35. IDENTIFY by name, address and telephone number each and every domestic and foreign bank and/or financial institution in which BW Trust has an interest and provide the account number, type of account, and account balance from January, 2007 to present. In addition, identify the record owner or title of the account.
36. Does BW Trust have any other assets or interests in other assets, either actual or contingent? If so, describe the assets in detail, identify the location of the asset, and state the current fair market value of each such asset.
37. IDENTIFY all current and former Trustees of the BW Trust and for each, identify his or her name, business address, employer, and telephone number. If any current or former Trustee is a corporation or other business organization (*e.g.*, limited liability company), identify its name, where it was organized, registered agent, and business address.

38. IDENTIFY all current and former beneficiaries of the BW Trust and for each, identify his or her name, address, employer, and telephone number. For all beneficiaries who are represented by counsel, identify the counsel and his or her firm, business address, and telephone number.
39. IDENTIFY all current and former grantors, settlers, or donors of the BW Trust and for each, identify his or her name, business address, employer, and telephone number. If any current or former grantors, settlers, or donors is a corporation or other business organization (*e.g.*, limited liability company), identify its name, where it was organized, registered agent, and business address.
40. IDENTIFY all natural persons from whom DOCUMENTS were collected for possible production by RESPONDENT in response to this Civil Investigative Demand (i.e. “custodians”).
41. For each custodian IDENTIFIED in the previous demand, state whether the following sources of information were (i) collected for review and production, (ii) confirmed not to exist, or (iii) neither collected nor confirmed not to exist for that custodian:
  - a. paper DOCUMENTS;
  - b. email messages, including those stored locally or on servers;
  - c. text messages;
  - d. Messaging and social media data;
  - e. voicemails and answering machine messages; and
  - f. other electronically stored information, including from work computer(s), personal computer(s), thumb drives or other media, external hard drives, network storage, or the cloud;

42. Describe the steps YOU took to collect DOCUMENTS from backup tapes, network storage devices, servers, and the cloud for production in response to this Civil Investigative Demand.
43. Describe the steps YOU took to collect any paper DOCUMENTS stored in a central filing system or other storage for production in response to this Civil Investigative Demand.
44. To the best of YOUR knowledge and belief, are YOU producing, or otherwise making available for examination with YOUR response to this Civil Investigative Demand all non-privileged, responsive DOCUMENTS to categories 1 - 15 of the Requests to Produce Documents, below, that are in YOUR possession, custody, or control?

**COMPLETE AND HAVE NOTARIZED THE FOLLOWING VERIFICATION FORM. IF AVERIFICATION ONLY APPLIES TO CERTAIN RESPONSES, COMPLETE AND HAVE NOTARIZED ADDITIONAL VERIFICATION(S) SO THAT ALL OF THE RESPONSES ARE SUPPORTED BY AVERIFICATION. SUBMIT THE VERIFICATION(S) WITH THE RESPONSES.**

Verification of Response

STATE OF \_\_\_\_\_ )  
 ) §:  
COUNTY OF \_\_\_\_\_ )

The undersigned, being first placed under oath, deposes and says the following. He/she makes this verification on behalf of him/herself (if he/she is the person to whom the Civil Investigative Demand is directed) or on behalf of the entity to which the Civil Investigative Demand is directed. If responding on behalf of an entity, he/she is authorized to do so.

He/she has read the Civil Investigative Demand, and [check which is appropriate]

\_\_\_ the responses to all of the demands or

\_\_\_ the responses to demand(s) \_\_\_\_\_ (list the number(s) of the demands to which this verification applies and submit additional verification(s) so that all answers are supported by a verification)

and the facts and other matters set forth in the those responses (other than objections, claims of privilege, and purely legal contentions) are true, accurate, and complete to the best of his/her knowledge and belief.

Signature of Verifying Party: \_\_\_\_\_

Name of Verifying Party: \_\_\_\_\_

Title of Verifying Party (if responding for an entity): \_\_\_\_\_

Subscribed and sworn/affirmed before me this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_.

\_\_\_\_\_  
Notary Public

# EXHIBIT C

Cover Letter and Civil Investigative Demands to  
DII Industries, LLC Asbestos PI Trust

Dated December 13, 2016

December 13, 2016

DII Industries, LLC Asbestos PI Trust  
Attn: Trustee and Legal Department  
P. O. Box 821628  
Dallas, TX 75382

Dear Trustee:

For the reasons explained below, the undersigned Attorneys General support the attached civil investigative demand in order to learn more about how the asbestos trust is operating and to ensure that no fraud is being committed.

Congress adopted Section 524(g) of the Bankruptcy Code<sup>1</sup> in response to a rapid growth of asbestos litigation that began in the mid-1980s. As you are aware, this statute allows defendants in the asbestos tort system to declare bankruptcy and fund an asbestos personal injury bankruptcy trust. The debtor then emerges from bankruptcy free of its asbestos-related liabilities, which the trust assumes. Currently over 60 companies have established trusts, including all the manufacturers of the most dangerous and dusty asbestos-containing products. These trusts have paid out \$17 billion since 2008.

As chief legal officers for our respective states, we are concerned about potential abuse of the asbestos trusts. Plaintiffs' attorneys are using the trusts to obtain significant monetary recovery for claims, even where they would fail in the tort system. The abuse injures our states by improperly draining the trust assets, precluding future legitimate claimants from relying on the trust, and leaving states with the high cost associated with asbestos-related disease. Further, there are questions surrounding the Medicaid Secondary Payer statute and whether the trust handlers are ensuring that medical assistance programs are being reimbursed for payments made from the trust.

A recent court decision raises serious questions regarding whether the trusts have implemented any measures to address this lack of scrutiny over claims. The federal court overseeing the bankruptcy of Garlock Sealing Technologies, Inc. found that some law firms had engaged in "suppression of evidence" when their clients were

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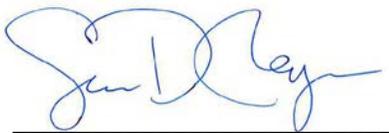
<sup>1</sup> 11 U.S.C. § 524(g).

“unable to identify exposure in the tort case, but then later (and in some cases previously) able to identify it in Trust claims.”<sup>2</sup>

This evidence suggests that the trusts are not sufficiently rigorous in scrutinizing their claims. This lack of oversight also raises questions as to whether the trusts and claimants attorneys are ensuring that state medical assistance programs are being reimbursed once the trust pays claimants who have also received compensation from those programs.

For these reasons, the undersigned Attorneys General support the attached civil investigative demand.

Sincerely,



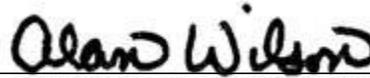
SEAN D. REYES  
Utah Attorney General



BRAD D. SCHIMEL  
Wisconsin Attorney General



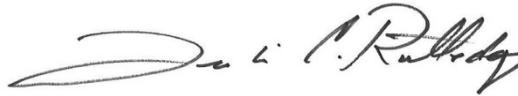
LUTHER STRANGE  
Alabama Attorney General



ALAN WILSON  
South Carolina Attorney General



JEFF LANDRY  
Louisiana Attorney General



LESLIE RUTLEDGE  
Arkansas Attorney General



ADAM LAXALT  
Nevada Attorney General



PATRICK MORRISEY  
West Virginia Attorney General



DEREK SCHMIDT  
Kansas Attorney General



TIM FOX  
Montana Attorney General



Bill Schuette  
In re: Gurlock Sealing Techs, LLC, 504 B.R. 71, 86 (Bankr. W.D.N.C. 2014).



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BILL SCHUETTE  
Michigan Attorney General

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DOUGLAS J. PETERSON  
Nebraska Attorney General



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MARTY J. JACKLEY  
South Dakota Attorney General

CID No. 1-A2

December 13, 2016

To: DII Industries, LLC Asbestos PI Trust  
P. O. Box 821628  
Dallas, TX 75382

SERVE: Trustee and Legal Department

**CIVIL INVESTIGATIVE DEMAND**

Pursuant to Utah Code § 26-20-14, the Attorney General for the State of Utah, in conjunction with Attorneys General from states of Wisconsin, as well as the Wisconsin Department of Agriculture, Trade and Consumer Protection hereby command YOU to respond in writing to the demands for information contained herein (and in the attachment hereto) and produce or make available for examination the information and documentary materials described below and in the attachment hereto.

Your responses and document production must be made in accordance with the enclosed instructions. Submit your completed responses, verification(s), and document production by hand delivery or mail to the Office of the Utah Attorney General, Utah State Capitol Complex, 350 N. Main Street, Ste. 230, Salt Lake City, Utah 84114-2320, on the 28th of February, 2017 at 11:00 a.m.

The Civil Investigative Demand (CID) is issued in connection with investigations by the Attorneys General and Consumer Protection agencies into possible consumer fraud and/or Medicaid fraud, operating pursuant to 42 U.S.C. § 1396a(25)(A), Utah Code § 26-20-14, Wis. Stat. §§ 49.49(4m), 49.485, 93.15, 93.16, 100.18, 100.20 regarding questions surrounding Medicaid Secondary Payer statutory compliance, proper use of asbestos trust management, and whether trust handlers are ensuring that medical assistance programs are being reimbursed for payments from trust, which implicate the consumer protection interests of participating states.

The investigation relates in part to data and other materials and information presented by and to DII Industries, LLC Asbestos PI Trust (DII Trust) in connection with the actions and claims addressed in the course of litigation in the U.S. Bankruptcy Court for the Western District of North Carolina in *In re: Garlock Sealing Technologies, LLC*, as well as information released by the Court in connection with the same.

Please refer any questions you may have about this CID to Parker Douglas, Chief Federal Deputy and General Counsel, Office of the Utah Attorney General, 350 N. Main Street, Ste. 230, Salt Lake City, Utah 84114-2320, (801)538-9600.

This CID is issued at Salt Lake City, Utah, this 12th day of December, 2016.



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Parker Douglas  
Chief Federal Deputy & General Counsel  
Office of the Utah Attorney General

## **ATTACHMENT**

### **INSTRUCTIONS**

1. **Rules of construction.** These instructions and the below demands for information and requests to produce documents should be construed to seek the broadest amount of information from YOU. Consistent with this, and without limiting any other terms used herein:
  - a. The terms “any,” “and,” “and/or,” “each,” “every,” “each and every,” “other,” and “or” should be construed so as to seek the broadest possible information.  
  
The singular includes the plural and the masculine and feminine gender are interchangeable, so as to seek the broadest possible information.
  - b. Verb tense and number should be construed so as to seek the broadest possible information.
  - c. Unless expressly stated, the scope of each demand or request does not limit another, but YOU may, consistent with the below instructions, expressly reference YOUR response to another demand or request to avoid duplication.
  - d. Unless otherwise indicated, each paragraph of this Civil Investigative Demand (CID) relates to the period from 2007 through the present date. Any documents prepared during this time period, or before this time period but which relate thereto, are also to be produced.
  - e. The scope of this CID is intended to reach any of the described items which are stored by you by a third party organization, and/or stored at an offsite location.

2. The scope of this CID is to reach any and all data, documents and things in your possession, including those stored or residing on any computer, hard drive, desktop, laptop, file server, database server, email servers and other systems where data was transmitted or stored on purpose or as a result of transient use of a system or application in the course of day to day research or product processing work that is owned or contracted for by you or any of your officers, managers, employees, agents, board members, departments, divisions, programs, IT departments, contractors and other representatives.

**Instructions for responding to demands for information.**

- a. At the top of the responses, list RESPONDENT's name and the date of issuance of the Civil Investigative Demand to which the responses apply. Provide all responses and other information in a clearly legible manner.
- b. Provide a written response to each demand contained herein and indicate the demand to which each response applies. In providing a response, divulge all responsive information in YOUR possession, custody, or control. If after exercising due diligence YOU cannot answer a demand, or cannot answer it fully, state the answer to the fullest extent possible and also state why YOU are unable to answer it more fully.
- c. If RESPONDENT objects (on the basis of privilege or otherwise) to responding to a demand or portion(s) of a demand, within the time for responding to the demand state with YOUR response all objection(s) and their specific bases. Claims of privilege must be made in accordance with paragraph 4, below. If

RESPONDENT only objects to portion(s) of a demand, also provide to the fullest extent possible the answer to the portion(s) of the demand to which

RESPONDENT does not object.

- d. To avoid duplication, respondent may cross-reference its response to another demand in this Civil Investigative Demand. In addition, whenever the true, accurate, and complete answer to a demand is contained in one or more DOCUMENT(s), the DOCUMENT(s) may suffice as a response to the demand if the response so states, produces the DOCUMENT(s), and IDENTIFIES the DOCUMENT(s) (or portion(s) thereof) that specifically answer the demand.

### **3. Instructions for producing DOCUMENTS.**

- a. Firmly attach the DOCUMENTS to the responses or label them and submit them together with the responses. List the demand(s) or request(s) to produce to which each DOCUMENT is responsive.
- b. With respect to each document produced, identify the person producing the document and the paragraph number of the request in response to which production is being made.
- c. Each document request contemplates production of the entire document without redaction, abbreviation or deletion.
- d. For each request for production, produce all responsive DOCUMENTS in YOUR possession, custody, or control. This includes all drafts and other versions of responsive DOCUMENTS. If after exercising due diligence YOU cannot

produce all such DOCUMENTS, expressly state this in writing for the specific request, explain why this is the case and what steps YOU took to collect and produce responsive DOCUMENTS, and provide this statement to the Attorney General's Office within the time for responding to the requests to produce documents and with YOUR response to the Civil Investigative Demand.

- e. If RESPONDENT objects (on the basis of privilege or otherwise) to producing any responsive DOCUMENT(s), state in writing all objection(s) and their specific bases for the specific request, and provide this statement to the Attorney General's Office within the time for responding to the requests to produce documents and with YOUR response to the Civil Investigative Demand. Claims of privilege must be made in accordance with paragraph 5, below. Produce all responsive DOCUMENT(s) that RESPONDENT has not expressly objected to producing.
- f. In lieu of producing originals, photographic reproductions or electronic copies of DOCUMENTS may be provided, so long as such reproductions/copies are accurate, complete, and legible to the same degree as the originals, and provided that the originals from which the reproductions/copies are made are retained by their custodian(s) until the final disposition of this matter. If reproductions or copies are produced, consecutively number (i.e. Bates Number) all pages.
- g. Preferred formats for materials. Audio tapes are preferred in standard compact disc format; video tapes are preferred in standard DVD format; computer records are preferred on a CD or DVD usable in an IBM compatible personal computer

running DOS or Windows, and using a standard program such as Excel or Word, or including the application software needed to examine or manipulate the records or information.

- h. If any document requested was, but is no longer in your possession, subject to your control, or in existence, state for each such document:
  - 1. the type of document;
  - 2. whether it is missing, lost, has been destroyed, or has been transferred to the possession, custody, or control of other persons;
  - 3. the circumstances surrounding, and the authorization for, the disposition described in (b) above;
  - 4. the date or approximate date of the disposition described in (2) above;
  - 5. the identity of all persons having knowledge of the circumstances described in (c) above; and
  - 6. the identity of all persons having knowledge of the document's contents.
  
- i. If you have a document retention/destruction program, you are asked to suspend it immediately. Regardless of whether you have a document retention/destruction program, you should take precautions to ensure that no documents called for in this CID are inadvertently or intentionally destroyed.
  
- j. To the extent that any of the documents or data are stored in an encrypted fashion, the documents and data should be produced in such a way that the AGOs and other Offices of Consumer Protection can decrypt and read such documents or data.

**4. Instructions for claiming privilege.**

- a. When information is withheld from disclosure on a claim that it is privileged or subject to protection as trial-preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of each withheld DOCUMENT or COMMUNICATION that is sufficient to enable other parties to contest the claim. This shall include the name(s) of the author(s)/speaker(s) and recipient(s), a general description of its substance, all privilege(s) that are being claimed, and the specific basis for the claim of privilege.
- b. If you refuse to provide information in response to any of the attached demands or requests because it tends to prove you committed a crime, or may subject you to fine, penalty, or forfeiture, you should affirmatively state, in every such instance, that is the reason for your refusal to provide information.
- c. If a privilege or other protection can be protected by redacting rather than withholding a DOCUMENT, do not withhold the DOCUMENT entirely but rather redact and produce the redacted copy of the DOCUMENT. Provide information sufficient to justify the redaction, consistent with 5(a), *supra*.

**DEFINITIONS**

1. As used herein, the word DII Industries, LLC Asbestos PI Trust (DII Trust), “you” and “your” mean the entity to which this CID is addressed DII Trust, and includes all the officers, managers, employees, agents, board members, departments, divisions, programs, IT departments, contractors and other representative of DII Trust.

2. As used herein, the words “document” or “documents” mean an exact copy of the original and any copies of written, printed, typed, electronic, or graphic matter of any kind or nature, however produced or reproduced, any book, pamphlet, brochure, periodical, newspaper, letter, correspondence, memoranda, notice, facsimile, e-mail, manual, press release, telegram, report, study, handwritten note, working paper, chart, paper, graph, index, tape, data sheet, data processing card, or any other written, recorded, transcribed, punched, taped, filmed or graphic matter now in your possession, custody or control.

3. As used herein, the words “identify,” “identity,” and “identification” when used in reference to a natural or corporate person mean to state his, her or its full name, present or last known address, telephone number, last known position and business affiliation, and each of his or her positions during the relevant time period. When used in reference to any other type of person, these words mean to state the name of the entity, its present or last known address, and its telephone number.

4. When used in reference to a document kept or prepared in the course of business the words “identify” and “identification” mean to state its date, author, the type of document (e.g. letter, memorandum, telegram, chart, photograph, sound reproduction, etc.) or, if the above information is not available, some other means of identifying it; its present location; and the name of each of its present custodians.

5. As used herein, the words “person” and “persons” include any individual, firm, partnership, association, trust, joint venture, corporation, limited liability company, or other legal commercial identity.

6. As used herein, the word “relating” means to make a statement about, discuss, describe, reflect, identify, deal with, consist of, establish, comprise, list, or in any way pertain, in whole or in part, to the subject.

### **DOCUMENTS TO BE PRODUCED**

1. All written trust instruments or other documents creating the trust.
2. All settlements.
3. All claims submitted to the trust by any source.
4. All documents submitted to DII Trust that constitute or are in any way related to a claim filed on behalf of Mr. Arthur Filion [Claim #5119663].
5. All documents that constitute or are in any way related to correspondence, messages, e-mails sent or received by DII Trust in connection with a claim filed on behalf of Mr. Arthur Filion [Claim #5119663].
6. All documents submitted to DII Trust that constitute or are in any way related to a claim filed on behalf of Mr. James Ginter [PIQ #88060, Table B].
7. All documents that constitute or are in any way related to correspondence, messages, e-mails sent or received by DII Trust in connection with a claim filed on behalf of Mr. James Ginter [PIQ #88060, Table B].
8. All documents submitted to DII Trust that constitute or are in any way related to a claim filed on behalf of Mr. John Koeberle [PIQ #98199, YOB: 1930].
9. All documents submitted to DII Trust that constitute or are in any way related to a claim filed on behalf of Mr. John Koeberle [PIQ #98199, YOB: 1930].
10. All documents submitted to DII Trust that constitute or are in any way related to a claim filed on behalf of Mr. Chris Smith [Claim #11078934].

11. All documents that constitute or are in any way related to correspondence, messages, e-mails sent or received by DII Trust in connection with a claim filed on behalf of Mr. Chris Smith [Claim #11078934].

**INTERROGATORIES/DEMANDS FOR INFORMATION**

In accordance with the instructions set forth above, provide true, accurate, and complete written responses, verified under oath, to each demand set forth below.

1. Information released by the U.S. Bankruptcy Court for the Western District of North Carolina in *In re: Garlock Sealing Technologies, LLC* suggests that DII Trust approved a claim filed on behalf of Mr. Arthur Filion [Claim #5119663].
2. IDENTIFY all PERSONS employed by or working on behalf of DII Trust who were aware of, handled, assisted with, or played a part in approving a claim filed on behalf of Mr. Arthur Filion [Claim #5119663].
3. IDENTIFY all PERSONS whose names appeared on a claim filed on behalf of Mr. Arthur Filion [Claim #5119663] as counsel for Mr. Filion.
4. IDENTIFY the current status of all claims with the DII Trust filed on behalf of Mr. Arthur Filion [Claim #5119663].
5. IDENTIFY the date final action was taken by DII Trust on any claims filed on behalf of Mr. Arthur Filion [Claim #5119663] that have been conclusively addressed by DII Trust.
6. IDENTIFY any monies paid to Mr. Arthur Filion [Claim #5119663] as a result of a claim submitted to DII Trust on behalf of Mr. Arthur Filion [Claim #5119663].
7. IDENTIFY any other person or entity paid monies as a result of a claim submitted to DII Trust on behalf of Mr. Arthur Filion [Claim #5119663].

8. Information released by the U.S. Bankruptcy for the Western District of North Carolina in *In re Garlock, Sealing Technologies, LLC* suggests inconsistent claims were filed with various trusts on behalf of Mr. Arthur Filion. Claims with two trusts “stated that he was a mechanical engineer.” However, claims with other trusts, including DII Trust (Claim #5119663), “stated that he was a laborer or a pipefitter during various overlapping periods.” Was DII Trust aware of this sworn testimony when it approved Mr. Filion’s claim?
9. Information released by the U.S. Bankruptcy Court for the Western District of North Carolina in *In re: Garlock Sealing Technologies, LLC* suggests that DII Trust approved a claim filed on behalf of Mr. James Ginter [PIQ #88060, Table B].
10. IDENTIFY all PERSONS employed by or working on behalf of DII Trust who were aware of, handled, assisted with, or played a part in approving a claim filed on behalf of Mr. James Ginter [PIQ #88060, Table B].
11. IDENTIFY all PERSONS whose names appeared on a claim filed on behalf of Mr. James Ginter [PIQ #88060, Table B] as counsel for Mr. Ginter [PIQ #88060, Table B].
12. IDENTIFY the current status of all claims with the DII Trust filed on behalf of Mr. James Ginter [PIQ #88060, Table B].
13. IDENTIFY the date final action was taken by DII Trust on any claims filed on behalf of Mr. James Ginter [PIQ #88060, Table B] that have been conclusively addressed by DII Trust.
14. IDENTIFY any monies paid to Mr. James Ginter [PIQ #88060, Table B] as a result of a claim submitted to DII Trust on behalf of Mr. Ginter [PIQ #88060, Table B].

15. IDENTIFY any other person or entity paid monies as a result of a claim submitted to DII Trust on behalf of Mr. James Ginter [PIQ #88060, Table B].
16. During a state court trial, Mr. Ginter's counsel maintained that his only exposure to amosite asbestos and asbestos-containing insulation occurred on Allied Chemical facility. Mr. Ginter's counsel subsequently filed claims supported by his work history at a different job site. Was DII Trust aware of the arguments made in Mr. Ginter's state court lawsuit when it considered the claim?
17. Information released by the U.S. Bankruptcy Court for the Western District of North Carolina in *In re: Garlock Sealing Technologies, LLC* suggests that DII Trust approved a claim filed on behalf of Mr. John Koeberle [PIQ #98199, YOB: 1930].
18. IDENTIFY all PERSONS employed by or working on behalf of DII Trust who were aware of, handled, assisted with, or played a part in approving a claim filed on behalf of Mr. John Koeberle [PIQ #98199, YOB: 1930].
19. IDENTIFY all PERSONS whose names appeared on a claim filed on behalf of Mr. John Koeberle [PIQ #98199, YOB: 1930] as counsel for Mr. Koeberle [PIQ #98199, YOB: 1930].
20. IDENTIFY the current status of all claims with the DII Trust filed on behalf of Mr. John Koeberle [PIQ #98199, YOB: 1930].
21. IDENTIFY the date final action was taken by DII Trust on any claims filed on behalf of Mr. John Koeberle [PIQ #98199, YOB: 1930] that have been conclusively addressed by DII Trust.
22. IDENTIFY any monies paid to Mr. John Koeberle [PIQ #98199, YOB: 1930] as a result of a claim submitted to DII Trust on behalf of Mr. Koeberle [PIQ #98199, YOB: 1930].

23. IDENTIFY any other person or entity paid monies as a result of a claim submitted to DII Trust on behalf of Mr. John Koeberle [PIQ #98199, YOB: 1930].
24. Researchers comparing claims disclosed in *In re Garlock, LLC* with allegations and statements made in state court lawsuits noted that Mr. Koeberle “explicitly testified under oath that he was not exposed to the products of particular trust predecessor companies” and that “in direct contradiction of Koeberle’s own testimony, the Garlock data show that bankruptcy trust claims were filed on Koeberle’s behalf against trust that indemnify ... [Babcock & Wilcox].” Was DII Trust aware of Mr. Koeberle’s sworn testimony when it considered the claim?
25. Information released by the U.S. Bankruptcy Court for the Western District of North Carolina in *In re: Garlock Sealing Technologies, LLC* suggests that DII Trust approved a claim filed on behalf of Mr. Chris Smith [Claim #11078934].
26. IDENTIFY all PERSONS employed by or working on behalf of DII Trust who were aware of, handled, assisted with, or played a part in approving a claim filed on behalf of Mr. Chris Smith [Claim #11078934].
27. IDENTIFY all PERSONS whose names appeared on a claim filed on behalf of Mr. Chris Smith [Claim #11078934] as counsel for Mr. Chris Smith [Claim #11078934].
28. IDENTIFY the current status of all claims with the DII Trust filed on behalf of Mr. Chris Smith [Claim #11078934].
29. IDENTIFY the date final action was taken by DII Trust on any claims filed on behalf of Mr. Chris Smith [Claim #11078934] that have been conclusively addressed by DII Trust.
30. IDENTIFY any monies paid to Mr. Chris Smith [Claim #11078934] as a result of a claim submitted to DII Trust on behalf of Mr. Chris Smith [Claim #11078934].

31. IDENTIFY any other person or entity paid monies as a result of a claim submitted to DII Trust on behalf of Mr. Chris Smith [Claim #11078934].
32. Information released by the U.S. Bankruptcy for the Western District of North Carolina in *In re: Garlock Sealing Technologies, LLC* suggests inconsistent claims were filed with various trust on behalf of Mr. Chris Smith. A claim with DII Trust [Claim #11078934] “stated that he was a laborer at a powerhouse in New York in 1963-65.” Claims filed with three other trusts “stated that he worked as a laborer at Austin & Wyrodisk in Hollywood, FL from 1961-1975.” Was DII Trust aware of the work histories provided to other trusts when it considered the claim?
33. IDENTIFY all documents reviewed in responding to this Civil Investigative Demand, Requests for Production of Documents, and Interrogatories.
34. IDENTIFY all individuals who prepared or assisted in the preparation of the responses to this Civil Investigative Demand, Requests for Production of Documents, and Interrogatories, identifying for each such individual the Civil Investigative Demand Number, Interrogatory, or Request for Document with which he or she assisted.
35. IDENTIFY by name, address and telephone number each and every domestic and foreign bank and/or financial institution in which DII Trust has an interest and provide the account number, type of account, and account balance from \_\_\_\_\_ to present. In addition, identify the record owner or title of the account.
36. Does DII Trust have any other assets or interests in other assets, either actual or contingent? If so, describe the assets in detail, identify the location of the asset, and state the current fair market value of each such asset.

37. IDENTIFY all current and former Trustees of the DII Trust and for each, identify his or her name, business address, employer, and telephone number. If any current or former Trustee is a corporation or other business organization (*e.g.*, limited liability company), identify its name, where it was organized, registered agent, and business address.
38. IDENTIFY all current and former beneficiaries of the DII Trust and for each, identify his or her name, address, employer, and telephone number. For all beneficiaries who are represented by counsel, identify the counsel and his or her firm, business address, and telephone number.
39. IDENTIFY all current and former grantors, settlers, or donors of the DII Trust and for each, identify his or her name, business address, employer, and telephone number. If any current or former grantors, settlers, or donors is a corporation or other business organization (*e.g.*, limited liability company), identify its name, where it was organized, registered agent, and business address.
40. IDENTIFY all natural persons from whom DOCUMENTS were collected for possible production by RESPONDENT in response to this Civil Investigative Demand (i.e. “custodians”).
41. For each custodian IDENTIFIED in the previous demand, state whether the following sources of information were (i) collected for review and production, (ii) confirmed not to exist, or (iii) neither collected nor confirmed not to exist for that custodian:
  - a. paper DOCUMENTS;
  - b. email messages, including those stored locally or on servers;
  - c. text messages;
  - d. Messaging and social media data;

- e. voicemails and answering machine messages; and
  - f. other electronically stored information, including from work computer(s), personal computer(s), thumb drives or other media, external hard drives, network storage, or the cloud;
42. Describe the steps YOU took to collect DOCUMENTS from backup tapes, network storage devices, servers, and the cloud for production in response to this Civil Investigative Demand.
43. Describe the steps YOU took to collect any paper DOCUMENTS stored in a central filing system or other storage for production in response to this Civil Investigative Demand.
44. To the best of YOUR knowledge and belief, are YOU producing, or otherwise making available for examination with YOUR response to this Civil Investigative Demand all non-privileged, responsive DOCUMENTS to categories 1- of the Requests to Produce Documents, below, that are in YOUR possession, custody, or control?

**COMPLETE AND HAVE NOTARIZED THE FOLLOWING VERIFICATION FORM. IF AVERIFICATION ONLY APPLIES TO CERTAIN RESPONSES, COMPLETE AND HAVE NOTARIZED ADDITIONAL VERIFICATION(S) SO THAT ALL OF THE RESPONSES ARE SUPPORTED BY AVERIFICATION. SUBMIT THE VERIFICATION(S) WITH THE RESPONSES.**

Verification of Response

STATE OF \_\_\_\_\_ )  
 ) §:  
COUNTY OF \_\_\_\_\_ )

The undersigned, being first placed under oath, deposes and says the following. He/she makes this verification on behalf of him/herself (if he/she is the person to whom the Civil Investigative Demand is directed) or on behalf of the entity to which the Civil Investigative Demand is directed. If responding on behalf of an entity, he/she is authorized to do so.

He/she has read the Civil Investigative Demand, and [check which is appropriate]

\_\_\_ the responses to all of the demands or

\_\_\_ the responses to demand(s) \_\_\_\_\_ (list the number(s) of the demands to which this verification applies and submit additional verification(s) so that all answers are supported by a verification)

and the facts and other matters set forth in the those responses (other than objections, claims of privilege, and purely legal contentions) are true, accurate, and complete to the best of his/her knowledge and belief.

Signature of Verifying Party: \_\_\_\_\_

Name of Verifying Party: \_\_\_\_\_

Title of Verifying Party (if responding for an entity): \_\_\_\_\_

Subscribed and sworn/affirmed before me this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_.

\_\_\_\_\_  
Notary Public

# EXHIBIT D

Cover Letter and Civil Investigative Demands to Owens  
Corning/Fibreboard Asbestos Personal Injury Trust

Dated December 13, 2016

December 13, 2016

Owens Corning/Fibreboard Asbestos Personal Injury Trust  
Attn: Trustee and Legal Department  
P.O. Box 1072  
Wilmington, DE 19899-1072

Dear Trustee:

For the reasons explained below, the undersigned Attorneys General support the attached civil investigative demand in order to learn more about how the asbestos trust is operating and to ensure that no fraud is being committed.

Congress adopted Section 524(g) of the Bankruptcy Code<sup>1</sup> in response to a rapid growth of asbestos litigation that began in the mid-1980s. As you are aware, this statute allows defendants in the asbestos tort system to declare bankruptcy and fund an asbestos personal injury bankruptcy trust. The debtor then emerges from bankruptcy free of its asbestos-related liabilities, which the trust assumes. Currently over 60 companies have established trusts, including all the manufacturers of the most dangerous and dusty asbestos-containing products. These trusts have paid out \$17 billion since 2008.

As chief legal officers for our respective states, we are concerned about potential abuse of the asbestos trusts. Plaintiffs' attorneys are using the trusts to obtain significant monetary recovery for claims, even where they would fail in the tort system. The abuse injures our states by improperly draining the trust assets, precluding future legitimate claimants from relying on the trust, and leaving states with the high cost associated with asbestos-related disease. Further, there are questions surrounding the Medicaid Secondary Payer statute and whether the trust handlers are ensuring that medical assistance programs are being reimbursed for payments made from the trust.

A recent court decision raises serious questions regarding whether the trusts have implemented any measures to address this lack of scrutiny over claims. The federal court overseeing the bankruptcy of Garlock Sealing Technologies, Inc. found that some law firms had engaged in "suppression of evidence" when their clients were

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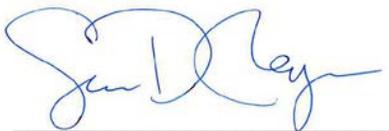
<sup>1</sup> 11 U.S.C. § 524(g).

“unable to identify exposure in the tort case, but then later (and in some cases previously) able to identify it in Trust claims.”<sup>2</sup>

This evidence suggests that the trusts are not sufficiently rigorous in scrutinizing their claims. This lack of oversight also raises questions as to whether the trusts and claimants attorneys are ensuring that state medical assistance programs are being reimbursed once the trust pays claimants who have also received compensation from those programs.

For these reasons, the undersigned Attorneys General support the attached civil investigative demand.

Sincerely,



SEAN D. REYES  
Utah Attorney General



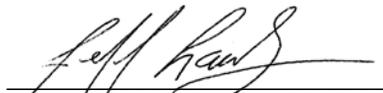
BRAD D. SCHIMEL  
Wisconsin Attorney General



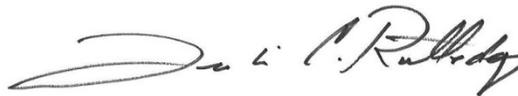
LUTHER STRANGE  
Alabama Attorney General



ALAN WILSON  
South Carolina Attorney General



JEFF LANDRY  
Louisiana Attorney General



LESLIE RUTLEDGE  
Arkansas Attorney General



ADAM LAXALT  
Nevada Attorney General



PATRICK MORRISEY  
West Virginia Attorney General



DEREK SCHMIDT  
Kansas Attorney General



TIM FOX  
Montana Attorney General



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BILL SCHUETTE  
Michigan Attorney General

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DOUGLAS J. PETERSON  
Nebraska Attorney General



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MARTY J. JACKLEY  
South Dakota Attorney General

CID No. 1-A3

December 13, 2016

To: Owens Corning/Fibreboard Asbestos Personal Injury Trust  
P.O. Box 1072  
Wilmington, DE 19899-1072

SERVE: Trustee and Legal Department

**CIVIL INVESTIGATIVE DEMAND**

Pursuant to Utah Code § 26-20-14, the Attorney General for the State of Utah, in conjunction with Attorneys General from states of Wisconsin, as well as the Wisconsin Department of Agriculture, Trade and Consumer Protection, hereby command YOU to respond in writing to the demands for information contained herein (and in the attachment hereto) and produce or make available for examination the information and documentary materials described below and in the attachment hereto.

Your responses and document production must be made in accordance with the enclosed instructions. Submit your completed responses, verification(s), and document production by hand delivery or mail to the Office of the Utah Attorney General, Utah State Capitol Complex, 350 N. Main Street, Ste. 230, Salt Lake City, Utah 84114-2320, on the 28th of February, 2017 at 11:00 a.m.

The Civil Investigative Demand (CID) is issued in connection with investigations by the Attorneys General and Consumer Protection agencies into possible consumer fraud and/or Medicaid fraud, operating pursuant to 42 U.S.C. § 1396a(25)(A), Utah Code § 26-20-14, Wis. Stat. §§ 49.49(4m), 49.485, 93.15, 93.16, 100.18, 100.20 regarding questions surrounding Medicaid Secondary Payer statutory compliance, proper use of asbestos trust management, and whether trust handlers are ensuring that medical assistance programs are being reimbursed for payments from trust, which implicate the consumer protection interests of participating states.

The investigation relates in part to data and other materials and information presented by and to Owens Corning/Fibreboard Asbestos Personal Injury Trust (OCFB Trust) in connection with the actions and claims addressed in the course of litigation in the U.S. Bankruptcy Court for the Western District of North Carolina in *In re: Garlock Sealing Technologies, LLC*, as well as information released by the Court in connection with the same.

Please refer any questions you may have about this CID to Parker Douglas, Chief Federal Deputy and General Counsel, Office of the Utah Attorney General, 350 N. Main Street, Ste. 230, Salt Lake City, Utah 84114-2320, (801)538-9600.

This CID is issued at Salt Lake City, Utah, this 12th day of December, 2016.



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Parker Douglas  
General Counsel & Chief Federal Deputy  
Office of the Utah Attorney General

## **ATTACHMENT**

### **INSTRUCTIONS**

1. **Rules of construction.** These instructions and the below demands for information and requests to produce documents should be construed to seek the broadest amount of information from YOU. Consistent with this, and without limiting any other terms used herein:
  - a. The terms “any,” “and,” “and/or,” “each,” “every,” “each and every,” “other,” and “or” should be construed so as to seek the broadest possible information.  
  
The singular includes the plural and the masculine and feminine gender are interchangeable, so as to seek the broadest possible information.
  - b. Verb tense and number should be construed so as to seek the broadest possible information.
  - c. Unless expressly stated, the scope of each demand or request does not limit another, but YOU may, consistent with the below instructions, expressly reference YOUR response to another demand or request to avoid duplication.
  - d. Unless otherwise indicated, each paragraph of this Civil Investigative Demand (CID) relates to the period from January, 2007 through the present date. Any documents prepared during this time period, or before this time period but which relate thereto, are also to be produced.
  - e. The scope of this CID is intended to reach any of the described items which are stored by you by a third party organization, and/or stored at an offsite location.

2. The scope of this CID is to reach any and all data, documents and things in your possession, including those stored or residing on any computer, hard drive, desktop, laptop, file server, database server, email servers and other systems where data was transmitted or stored on purpose or as a result of transient use of a system or application in the course of day to day research or product processing work that is owned or contracted for by you or any of your officers, managers, employees, agents, board members, departments, divisions, programs, IT departments, contractors and other representatives.

**Instructions for responding to demands for information.**

- a. At the top of the responses, list RESPONDENT's name and the date of issuance of the Civil Investigative Demand to which the responses apply. Provide all responses and other information in a clearly legible manner.
- b. Provide a written response to each demand contained herein and indicate the demand to which each response applies. In providing a response, divulge all responsive information in YOUR possession, custody, or control. If after exercising due diligence YOU cannot answer a demand, or cannot answer it fully, state the answer to the fullest extent possible and also state why YOU are unable to answer it more fully.
- c. If RESPONDENT objects (on the basis of privilege or otherwise) to responding to a demand or portion(s) of a demand, within the time for responding to the demand state with YOUR response all objection(s) and their specific bases. Claims of privilege must be made in accordance with paragraph 4, below. If

RESPONDENT only objects to portion(s) of a demand, also provide to the fullest extent possible the answer to the portion(s) of the demand to which

RESPONDENT does not object.

- d. To avoid duplication, respondent may cross-reference its response to another demand in this Civil Investigative Demand. In addition, whenever the true, accurate, and complete answer to a demand is contained in one or more DOCUMENT(s), the DOCUMENT(s) may suffice as a response to the demand if the response so states, produces the DOCUMENT(s), and IDENTIFIES the DOCUMENT(s) (or portion(s) thereof) that specifically answer the demand.

### **3. Instructions for producing DOCUMENTS.**

- a. Firmly attach the DOCUMENTS to the responses or label them and submit them together with the responses. List the demand(s) or request(s) to produce to which each DOCUMENT is responsive.
- b. With respect to each document produced, identify the person producing the document and the paragraph number of the request in response to which production is being made.
- c. Each document request contemplates production of the entire document without redaction, abbreviation or deletion.
- d. For each request for production, produce all responsive DOCUMENTS in YOUR possession, custody, or control. This includes all drafts and other versions of responsive DOCUMENTS. If after exercising due diligence YOU cannot

produce all such DOCUMENTS, expressly state this in writing for the specific request, explain why this is the case and what steps YOU took to collect and produce responsive DOCUMENTS, and provide this statement to the Attorney General's Office within the time for responding to the requests to produce documents and with YOUR response to the Civil Investigative Demand.

- e. If RESPONDENT objects (on the basis of privilege or otherwise) to producing any responsive DOCUMENT(s), state in writing all objection(s) and their specific bases for the specific request, and provide this statement to the Attorney General's Office within the time for responding to the requests to produce documents and with YOUR response to the Civil Investigative Demand. Claims of privilege must be made in accordance with paragraph 5, below. Produce all responsive DOCUMENT(s) that RESPONDENT has not expressly objected to producing.
- f. In lieu of producing originals, photographic reproductions or electronic copies of DOCUMENTS may be provided, so long as such reproductions/copies are accurate, complete, and legible to the same degree as the originals, and provided that the originals from which the reproductions/copies are made are retained by their custodian(s) until the final disposition of this matter. If reproductions or copies are produced, consecutively number (i.e. Bates Number) all pages.
- g. Preferred formats for materials. Audio tapes are preferred in standard compact disc format; video tapes are preferred in standard DVD format; computer records are preferred on a CD or DVD usable in an IBM compatible personal computer

running DOS or Windows, and using a standard program such as Excel or Word, or including the application software needed to examine or manipulate the records or information.

- h. If any document requested was, but is no longer in your possession, subject to your control, or in existence, state for each such document:
  - 1. the type of document;
  - 2. whether it is missing, lost, has been destroyed, or has been transferred to the possession, custody, or control of other persons;
  - 3. the circumstances surrounding, and the authorization for, the disposition described in (b) above;
  - 4. the date or approximate date of the disposition described in (2) above;
  - 5. the identity of all persons having knowledge of the circumstances described in (c) above; and
  - 6. the identity of all persons having knowledge of the document's contents.
- i. If you have a document retention/destruction program, you are asked to suspend it immediately. Regardless of whether you have a document retention/destruction program, you should take precautions to ensure that no documents called for in this CID are inadvertently or intentionally destroyed.
- j. To the extent that any of the documents or data are stored in an encrypted fashion, the documents and data should be produced in such a way that the AGOs and other Offices of Consumer Protection can decrypt and read such documents or data.

**4. Instructions for claiming privilege.**

- a. When information is withheld from disclosure on a claim that it is privileged or subject to protection as trial-preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of each withheld DOCUMENT or COMMUNICATION that is sufficient to enable other parties to contest the claim. This shall include the name(s) of the author(s)/speaker(s) and recipient(s), a general description of its substance, all privilege(s) that are being claimed, and the specific basis for the claim of privilege.
- b. If you refuse to provide information in response to any of the attached demands or requests because it tends to prove you committed a crime, or may subject you to fine, penalty, or forfeiture, you should affirmatively state, in every such instance, that is the reason for your refusal to provide information.
- c. If a privilege or other protection can be protected by redacting rather than withholding a DOCUMENT, do not withhold the DOCUMENT entirely but rather redact and produce the redacted copy of the DOCUMENT. Provide information sufficient to justify the redaction, consistent with 5(a), *supra*.

**DEFINITIONS**

1. As used herein, the word Owens Corning/Fibreboard Asbestos Personal Injury Trust (OFCB), “you” and “your” mean the entity to which this CID is addressed OFCB, and includes all the officers, managers, employees, agents, board members, departments, divisions, programs, IT departments, contractors and other representative of OFCB.

2. As used herein, the words “document” or “documents” mean an exact copy of the original and any copies of written, printed, typed, electronic, or graphic matter of any kind or nature, however produced or reproduced, any book, pamphlet, brochure, periodical, newspaper, letter, correspondence, memoranda, notice, facsimile, e-mail, manual, press release, telegram, report, study, handwritten note, working paper, chart, paper, graph, index, tape, data sheet, data processing card, or any other written, recorded, transcribed, punched, taped, filmed or graphic matter now in your possession, custody or control.

3. As used herein, the words “identify,” “identity,” and “identification” when used in reference to a natural or corporate person mean to state his, her or its full name, present or last known address, telephone number, last known position and business affiliation, and each of his or her positions during the relevant time period. When used in reference to any other type of person, these words mean to state the name of the entity, its present or last known address, and its telephone number.

4. When used in reference to a document kept or prepared in the course of business the words “identify” and “identification” mean to state its date, author, the type of document (e.g. letter, memorandum, telegram, chart, photograph, sound reproduction, etc.) or, if the above information is not available, some other means of identifying it; its present location; and the name of each of its present custodians.

5. As used herein, the words “person” and “persons” include any individual, firm, partnership, association, trust, joint venture, corporation, limited liability company, or other legal commercial identity.

6. As used herein, the word “relating” means to make a statement about, discuss, describe, reflect, identify, deal with, consist of, establish, comprise, list, or in any way pertain, in whole or in part, to the subject.

### **DOCUMENTS TO BE PRODUCED**

1. All written trust instruments or other documents creating the trust.
2. All settlements.
3. All claims submitted to the trust by any source.
4. All documents submitted to OCFB Trust that constitute or are in any way related to a claim filed on behalf of Mr. Robert Wood [PIQ #91169, Table B].
5. All documents that constitute or are in any way related to correspondence, messages, e-mails sent or received by OCFB Trust in connection with a claim filed on behalf of Mr. Robert Wood [PIQ #91169, Table B].
6. All documents submitted to OCFB Trust that constitute or are in any way related to a claim filed on behalf of Mr. James Ginter [PIQ #88060, Table B].
7. All documents that constitute or are in any way related to correspondence, messages, e-mails sent or received by OCFB Trust in connection with a claim filed on behalf of Mr. James Ginter [PIQ #88060, Table B].
8. All documents submitted to OCFB Trust that constitute or are in any way related to a claim filed on behalf of Mr. John Koeberle [PIQ #98199, YOB: 1930].
9. All documents submitted to OCFB Trust that constitute or are in any way related to a claim filed on behalf of Mr. John Koeberle [PIQ #98199, YOB: 1930].
10. All documents submitted to OCFB Trust that constitute or are in any way related to a claim filed on behalf of Mr. Chris Smith [Claim #11078934].

11. All documents that constitute or are in any way related to correspondence, messages, e-mails sent or received by OCFB Trust in connection with a claim filed on behalf of Mr. Chris Smith [Claim #11078934].

**INTERROGATORIES/DEMANDS FOR INFORMATION**

In accordance with the instructions set forth above, provide true, accurate, and complete written responses, verified under oath, to each demand set forth below.

1. Information released by the U.S. Bankruptcy Court for the Western District of North Carolina in *In re: Garlock Sealing Technologies, LLC* suggests that OCFB Trust approved a claim filed on behalf of Mr. Robert Wood [PIQ #91169, Table B].
2. IDENTIFY all PERSONS employed by or working on behalf of OCFB Trust who were aware of, handled, assisted with, or played a part in approving a claim filed on behalf of Mr. Robert Wood [PIQ #91169, Table B].
3. IDENTIFY all PERSONS whose names appeared on a claim filed on behalf of Mr. Robert Wood [PIQ #91169, Table B] as counsel for Mr. Wood.
4. IDENTIFY the current status of all claims with the OCFB Trust filed on behalf of Mr. Robert Wood [PIQ #91169, Table B].
5. IDENTIFY the date final action was taken by OCFB Trust on any claims filed on behalf of Mr. Robert Wood [PIQ #91169, Table B] that have been conclusively addressed by OCFB Trust.
6. IDENTIFY any monies paid to Mr. Robert Wood [PIQ #91169, Table B] as a result of a claim submitted to OCFB Trust on behalf of Mr. Wood [PIQ #91169, Table B].
7. IDENTIFY any other person or entity paid monies as a result of a claim submitted to OCFB Trust on behalf of Mr. Robert Wood [PIQ #91169, Table B].

8. Researchers comparing claims disclosed in *In re Garlock, LLC* with allegations and statements made in state court lawsuits noted that Mr. Wood “could not recall the names of manufacturers of asbestos-containing insulation” when deposed. Was OCFB Trust aware of this sworn testimony when it approved Mr. Wood’s claim?
9. Information released by the U.S. Bankruptcy Court for the Western District of North Carolina in *In re: Garlock Sealing Technologies, LLC* suggests that OCFB Trust approved a claim filed on behalf of Mr. James Ginter [PIQ #88060, Table B].
10. IDENTIFY all PERSONS employed by or working on behalf of OCFB Trust who were aware of, handled, assisted with, or played a part in approving a claim filed on behalf of Mr. James Ginter [PIQ #88060, Table B].
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12. IDENTIFY the current status of all claims with the OCFB Trust filed on behalf of Mr. James Ginter [PIQ #88060, Table B].
13. IDENTIFY the date final action was taken by OCFB Trust on any claims filed on behalf of Mr. James Ginter [PIQ #88060, Table B] that have been conclusively addressed by OCFB Trust.
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15. IDENTIFY any other person or entity paid monies as a result of a claim submitted to OCFB Trust on behalf of Mr. James Ginter [PIQ #88060, Table B].
16. During a state court trial, Mr. Ginter’s counsel maintained that his only exposure to amosite asbestos and asbestos-containing insulation occurred on Allied Chemical facility.

Mr. Ginter's counsel subsequently filed claims supported by his work history at a different job site. Was OCFB Trust aware of the arguments made in Mr. Ginter's state court lawsuit when it considered the claim?

17. Information released by the U.S. Bankruptcy Court for the Western District of North Carolina in *In re: Garlock Sealing Technologies, LLC* suggests that OCFB Trust approved a claim filed on behalf of Mr. John Koeberle [PIQ #98199, YOB: 1930].
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19. IDENTIFY all PERSONS whose names appeared on a claim filed on behalf of Mr. John Koeberle [PIQ #98199, YOB: 1930] as counsel for Mr. Koeberle [PIQ #98199, YOB: 1930].
20. IDENTIFY the current status of all claims with the OCFB Trust filed on behalf of Mr. Mr. John Koeberle [PIQ #98199, YOB: 1930].
21. IDENTIFY the date final action was taken by OCFB Trust on any claims filed on behalf of Mr. John Koeberle [PIQ #98199, YOB: 1930] that have been conclusively addressed by OCFB Trust.
22. IDENTIFY any monies paid to Mr. John Koeberle [PIQ #98199, YOB: 1930] as a result of a claim submitted to OCFB Trust on behalf of Mr. Koeberle [PIQ #98199, YOB: 1930].
23. IDENTIFY any other person or entity paid monies as a result of a claim submitted to OCFB Trust on behalf of Mr. John Koeberle [PIQ #98199, YOB: 1930].

24. Researchers comparing claims disclosed in *In re Garlock, LLC* with allegations and statements made in state court lawsuits noted that Mr. Koeberle “explicitly testified under oath that he was not exposed to the products of particular trust predecessor companies” and that “in direct contradiction of Koeberle’s own testimony, the Garlock data show that bankruptcy trust claims were filed on Koeberle’s behalf against trust that indemnify ... [Babcock & Wilcox].” Was OCFB Trust aware of Mr. Koeberle’s sworn testimony when it considered the claim?
25. Information released by the U.S. Bankruptcy Court for the Western District of North Carolina in *In re: Garlock Sealing Technologies, LLC* suggests that OCFB Trust approved a claim filed on behalf of Mr. Chris Smith [Claim #11078934].
26. IDENTIFY all PERSONS employed by or working on behalf of OCFB Trust who were aware of, handled, assisted with, or played a part in approving a claim filed on behalf of Mr. Chris Smith [Claim #11078934].
27. IDENTIFY all PERSONS whose names appeared on a claim filed on behalf of Mr. Chris Smith [Claim #11078934] as counsel for Mr. Chris Smith [Claim #11078934].
28. IDENTIFY the current status of all claims with the OCFB Trust filed on behalf of Mr. Chris Smith [Claim #11078934].
29. IDENTIFY the date final action was taken by OCFB Trust on any claims filed on behalf of Mr. Chris Smith [Claim #11078934] that have been conclusively addressed by OCFB Trust.
30. IDENTIFY any monies paid to Mr. Chris Smith [Claim #11078934] as a result of a claim submitted to OCFB Trust on behalf of Mr. Chris Smith [Claim #11078934].

31. IDENTIFY any other person or entity paid monies as a result of a claim submitted to OCFB Trust on behalf of Mr. Chris Smith [Claim #11078934].
32. Information released by the U.S. Bankruptcy for the Western District of North Carolina in *In re: Garlock Sealing Technologies, LLC* suggests inconsistent claims were filed with various trust on behalf of Mr. Chris Smith. A claim with OCFB Trust [Claim #11078934] “stated that he was a laborer at a powerhouse in New York in 1963-65.” Claims filed with three other trusts “stated that he worked as a laborer at Austin & Wyrosdisk in Hollywood, FL from 1961-1975.” Was OCFB Trust aware of the work histories provided to other trusts when it considered the claim?
33. IDENTIFY all documents reviewed in responding to this Civil Investigative Demand, Requests for Production of Documents, and Interrogatories.
34. IDENTIFY all individuals who prepared or assisted in the preparation of the responses to this Civil Investigative Demand, Requests for Production of Documents, and Interrogatories, identifying for each such individual the Civil Investigative Demand Number, Interrogatory, or Request for Document with which he or she assisted.
35. IDENTIFY by name, address and telephone number each and every domestic and foreign bank and/or financial institution in which OCFB Trust has an interest and provide the account number, type of account, and account balance from January, 2007 to present. In addition, identify the record owner or title of the account.
36. Does OCFB Trust have any other assets or interests in other assets, either actual or contingent? If so, describe the assets in detail, identify the location of the asset, and state the current fair market value of each such asset.

37. IDENTIFY all current and former Trustees of the OCFB Trust and for each, identify his or her name, business address, employer, and telephone number. If any current or former Trustee is a corporation or other business organization (*e.g.*, limited liability company), identify its name, where it was organized, registered agent, and business address.
38. IDENTIFY all current and former beneficiaries of the OCFB Trust and for each, identify his or her name, address, employer, and telephone number. For all beneficiaries who are represented by counsel, identify the counsel and his or her firm, business address, and telephone number.
39. IDENTIFY all current and former grantors, settlers, or donors of the OCFB Trust and for each, identify his or her name, business address, employer, and telephone number. If any current or former grantors, settlers, or donors is a corporation or other business organization (*e.g.*, limited liability company), identify its name, where it was organized, registered agent, and business address.
40. IDENTIFY all natural persons from whom DOCUMENTS were collected for possible production by RESPONDENT in response to this Civil Investigative Demand (i.e. “custodians”).
41. For each custodian IDENTIFIED in the previous demand, state whether the following sources of information were (i) collected for review and production, (ii) confirmed not to exist, or (iii) neither collected nor confirmed not to exist for that custodian:
  - a. paper DOCUMENTS;
  - b. email messages, including those stored locally or on servers;
  - c. text messages;
  - d. Messaging and social media data;

- e. voicemails and answering machine messages; and
  - f. other electronically stored information, including from work computer(s), personal computer(s), thumb drives or other media, external hard drives, network storage, or the cloud;
42. Describe the steps YOU took to collect DOCUMENTS from backup tapes, network storage devices, servers, and the cloud for production in response to this Civil Investigative Demand.
43. Describe the steps YOU took to collect any paper DOCUMENTS stored in a central filing system or other storage for production in response to this Civil Investigative Demand.
44. To the best of YOUR knowledge and belief, are YOU producing, or otherwise making available for examination with YOUR response to this Civil Investigative Demand all non-privileged, responsive DOCUMENTS to categories 1 - 15 of the Requests to Produce Documents, below, that are in YOUR possession, custody, or control?

**COMPLETE AND HAVE NOTARIZED THE FOLLOWING VERIFICATION FORM. IF AVERIFICATION ONLY APPLIES TO CERTAIN RESPONSES, COMPLETE AND HAVE NOTARIZED ADDITIONAL VERIFICATION(S) SO THAT ALL OF THE RESPONSES ARE SUPPORTED BY AVERIFICATION. SUBMIT THE VERIFICATION(S) WITH THE RESPONSES.**

Verification of Response

STATE OF \_\_\_\_\_ )  
 ) §:  
COUNTY OF \_\_\_\_\_ )

The undersigned, being first placed under oath, deposes and says the following. He/she makes this verification on behalf of him/herself (if he/she is the person to whom the Civil Investigative Demand is directed) or on behalf of the entity to which the Civil Investigative Demand is directed. If responding on behalf of an entity, he/she is authorized to do so.

He/she has read the Civil Investigative Demand, and [check which is appropriate]

\_\_\_ the responses to all of the demands or

\_\_\_ the responses to demand(s) \_\_\_\_\_ (list the number(s) of the demands to which this verification applies and submit additional verification(s) so that all answers are supported by a verification)

and the facts and other matters set forth in the those responses (other than objections, claims of privilege, and purely legal contentions) are true, accurate, and complete to the best of his/her knowledge and belief.

Signature of Verifying Party: \_\_\_\_\_

Name of Verifying Party: \_\_\_\_\_

Title of Verifying Party (if responding for an entity): \_\_\_\_\_

Subscribed and sworn/affirmed before me this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_.

\_\_\_\_\_  
Notary Public