History
C.E. Thurston & Sons, Inc.

A. Background

C.E. Thurston & Sons was founded in 1919 when C.E. Thurston, Sr. organized a small business representing several mechanical packing manufacturers in and around southeastern Virginia. The business soon added insulation and refractory contracting to its line of services. It was incorporated in 1949 as C. E. Thurston & Sons, Inc. ("Thurston"), and has operated since then as a commercial, industrial and marine contractor, headquartered in Norfolk, Virginia.

Throughout its history, Thurston provided goods and services to businesses dealing in extreme temperatures—either hot or cold. It operated as a specialty contractor, engaged in the sale, installation, maintenance, repair, removal and handling of asbestos-containing insulation products manufactured by others, as well as a distributor of such products. Thurston was never involved in the manufacture of insulation products or the mining or other extraction of raw materials. Thurston's sales and services related to asbestos containing products decreased as the risks of asbestos became known, **eventually ceasing in the late 1970s**.

In March 1991, Thurston expanded its insulation contracting business southward by acquiring Mechanical Insulation Services, Inc. ("MISI"), a South Carolina insulation contractor with operations in the southeastern United States. MISI was operated as a subsidiary of Thurston until 1994, when it merged with Thurston. In March 1992, Thurston acquired Ambrose Insulation Company ("Ambrose"), another insulation contractor, with offices and operations in Greensboro, North Carolina.

As of 2006, Thurston was licensed to do business in 13 states. Traditionally, Thurston generated substantial business in the shipbuilding and fitting industry, including business with the Norfolk Naval Shipyard and the business formerly referred to as Newport News Shipbuilding and Drydock.

B. Attempts to Manage and Resolve Asbestos Related Litigation

Over the years, Thurston attempted to manage and resolve the asbestos–related litigation brought against it and entered into numerous settlement agreements relating to asbestos-related personal injury claims.

With the intention of both resolving insurance coverage disputes and obtaining an efficient means of defending or administering asbestos related claims, Thurston, along with thirty-three companies that were former manufacturers, sellers or installer of asbestos-containing products ("Producers") and sixteen property and casualty insurers ("Insurers") (including some, but not all, of Thurston's insurers) entered into the Agreement Concerning Asbestos-Related Claims dated June 19, 1985 (the "Wellington Agreement"). The Wellington Agreement created the Asbestos Claims Facility ("ACF") to evaluate, defend, and settle present, threatened and future asbestos related personal injury claims and pay settlements and expenses related thereto. The Wellington Agreement also resolved the manner in which the signatory insurers would respond to asbestos related bodily injury claims involving the signatory producers. In or about 1987, when several Producers and insurers voluntarily withdrew from the ACF, this mechanism for funding settlements and administering claims ceased operation.

Following the cessation of the ACF, Thurston and several other of the Producers established the Center for Claims Resolution, Inc. (the "CCR"), a non-profit entity designed to provide a substitute for the ACF and its claims handling activities. Pursuant to the 1988 Producer Agreement Concerning Center for Claims Resolution ("Producer Agreement"), the CCR served for a time as the Producers' agent for purposes of the administration, analysis, reporting and settlement of asbestos-related personal injury claims, and administered surviving Wellington Agreement insurance related provisions. The CCR arranged nationwide settlements involving numerous co-defendants, many of which were companies destined for bankruptcy. As a participant in the CCR, Thurston became a party to several multi-Producer CCR settlements and, for several years paid CCR settlement amounts, defense costs, and claims-handling charges to the CCR for claims settled or resettled on or before July 31, 2001.

Beginning in August 2001, after the CCR ceased its settlement function, Thurston attempted to settle Asbestos Related Claims on its own. Thurston entered into settlement agreements both with individual plaintiffs and with groups of plaintiffs or their counsel. These agreements were generally confidential as among Thurston and the other settling parties.

C. Bankruptcy/Creation of Trust

On August 18, 2003, Thurston filed a chapter 11 bankruptcy case in the United States Bankruptcy Court for the Eastern District of Virginia, in order to seek a final resolution of the present

and future asbestos–related personal injury claims against it. In 2006, the Bankruptcy Court entered an order confirming a reorganization plan for Thurston, which established the C.E. Thurston & Sons, Inc. Asbestos Trust (the "Trust") as the vehicle to pay all present and future asbestos–related claims against the Trust.

The Trust assumed liability not only for claims against Thurston alleging personal injury or property damage due to asbestos exposure, but also claims arising under any theory of law that are related to or arose out of, directly or indirectly, the asbestos personal injury or property damage claims themselves. In addition, future demands for damages that in any way arise out of, relate to or allegedly are caused by the same or similar conduct or events that gave rise to the asbestos related claims against Thurston have been channeled to the Trust.