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6 Attorney for Beneficiaries of the Western Asbestos Settlement Trust

7 UNITED STATES BANKRUPTCY COURT
8 NORTHERN DISTRICT OF CALIFORNIA
9 SAN FRANCISCO DIVISION

10 **In re:**

Case No.13-43677

11 **WESTERN ASBESTOS COMPANY,**

Chapter 11

12 **Debtor,**

13 **OBJECTION - TENTH ANNUAL REPORT AND**
14 **ACCOUNTING, AUDITED FINANCIAL**
15 **STATEMENTS, AND CLAIM REPORT;**
16 **DECLARATION OF MICHAEL J.**
17 **MANDELBROT; ATTACHED EXHIBITS A-P,**
18 **inclusive**

19 Date: June 27, 2014

20 Time: 9:30 a.m.

21 Place: 235 Pine Street, 19th Floor
22 San Francisco, CA 94104

23 The Beneficiaries of the Western Asbestos Settlement Trust by and through their counsel, Michael
24 J. Mandelbrot and the Mandelbrot Law Firm, hereby **object** to the Tenth Annual Report of Accounting,
25 Audited Financial Statement, and Claim Report due to criminal bankruptcy fraud, misrepresentation of
26 material facts, adverse and conflicts of interest, and misappropriation of funds, perjury, and bad faith.

27 **TO THE HONORABLE THOMAS E CARLSON, UNITED STATES BANKRUPTCY**
28 **JUDGE:**

The Beneficiaries of the Western Asbestos Settlement Trust and Michael J. Mandelbrot, Esq.,
("Mandelbrot") hereby submit this Objection to the Tenth Annual Report and Accounting ("Annual

1 Report”) covering Trust activities occurring from January 1, 2013, to and including December 31, 2013,
2 (“Accounting Period”), and certain activities (both specified and unspecified) that took place outside the
3 accounting period. The factual statements in this Objection to the Annual Report are supported by the
4 Declaration of Michael J. Mandelbrot, Claimants’ Representative for hundreds of beneficiaries of the
5 Western Asbestos Settlement Trust, and the Exhibits attached hereto. By my signature below, I certify
6 that the exhibits attached hereto are true and correct copies of the documents presented and if called as a
7 witness I could testify to the authenticity thereof.

8 I. GENERAL OBJECTIONS

9 1. The Tenth Annual Report contains criminal bankruptcy fraud and misrepresentations of
10 material facts due to conflicts of interest, including but not limited to ¶¶ 3, 4, 5, 17, 20, 22, 23, 24, 25, 26,
11 30 and Exhibit C.

12 Conflicts of interest and adverse interests of the Managing Trustee, Futures Representative, Trust
13 Advisory Committee Members and their respective attorneys have existed throughout the Accounting
14 Period and have existed since the Trust’s inception due to the criminal and unethical acts of former
15 asbestos defense lawyers from the now bankrupt Brobeck, Phleger & Harrison LLP (hereinafter
16 “Brobeck”) Stephen Snyder (the current Managing Trustee of the Western Trust), Gary Fergus (attorney
17 for the Futures Representative of the Western Trust since at least 2002), Charles LaGrave (fraudulently
18 called both inside and outside counsel to the Western Trust since 2004 depending on circumstances), and
19 Benjamin Smith (current attorney to the Western Trust and known perjurer).¹ Each is not a “disinterested”
20 party, has an interest adverse to the estate and violated various ethical codes relating to the representation
21 of the adverse interests (see below). Each also participated in the criminal misappropriation of
22 \$35,542,397 from the Western Trust to Brobeck.²

23 In addition, Chairman of the Trust Advisory Committee for the Western Trust since its inception
24 Alan Brayton and his ‘sidekick’ Trust Advisory Committee member David McClain have operated since
25

26
27 ¹ See **Exhibit A**, *Declaration of Michael J. Mandelbrot*, dated March 12, 2014, ¶¶ 3-5, inclusive; See
also, **Exhibits 5-9**, attached to the *Declaration of Michael J. Mandelbrot*, Attached as **Exhibit A**. See
also, **Exhibit B**, *Declaration of Gary Fergus* dated March 20, 2014, ¶¶ 2, 4.

28 ² See **Exhibit C**, *2004 Western Asbestos Settlement Trust Annual Report and Accounting*, pg. 11, No. 22.

1 the Trust's inception with adverse interests a conflict of interest. Each represents hundreds of claimants
2 and has also criminally and fraudulently misappropriated \$12,300,000 from beneficiaries as "Special
3 Bonuses" from the Western Asbestos Trust.³

4 In addition, the Declaration of Benjamin Smith - Exhibit C to the Tenth Annual Report of
5 Accounting - contains extensive perjury and misrepresentations of material facts and should be stricken.
6 Benjamin Smith, who prepared the report (now employed by Snyder's other former firm Morgan, Lewis
7 and Bockius), is a known perjurer and perpetrator of fraud, and Exhibit C to the Tenth Annual Report
8 contains extensive perjury, as well as misstatements of material fact. Exhibit C to the Tenth Annual
9 Report should be stricken.⁴

10 II. SPECIFIC OBJECTIONS

11 1. **OBJECTION TO NO. 3: Appointment of Trustees: Fraud, Bad Faith, Conflicts of** 12 **Interest. Objection: Fraud, Bad Faith, Conflicts of Interest**

13 The February 2, 2004 Order Approving the Futures Representative Motion for Approval of
14 Appointment of Trustees for the Western Asbestos Settlement Trust [Docket No. 1262] should be
15 considered null and void due to fraud and conflicts of interest. Since the confirmation of the Western
16 Trust, the Hon. Charles Renfrew (Ret.) has employed former Brobeck attorney Gary Fergus as his
17 attorney. Fergus formerly worked at Brobeck as an attorney and had litigated against many present and
18 future claimants of the Western Asbestos Settlement Trust.⁵ Fergus' Managing Partner while working at
19 Brobeck was Stephen Snyder, appointment for Trustee of the Western Trust. Fergus violated various
20 provisions of Rule 3-310 of California Rules of Professional Conduct by accepting the position as
21 attorney for the Futures Representative. Renfrew violated the provision by even offering Fergus the role
22 as his attorney. Both Fergus and Snyder spent decades litigating *against* the present and future claimants
23 of the Trust and clearly have interests adverse to the Western Trust. The text of Rule 3-310, states in part:

24 California Rules of Professional Conduct: **Rule 3-310 Avoiding the**

26 ³ See **Exhibit C**, *2004 Western Asbestos Settlement Trust Annual Report and Accounting*, pg. 11, No. 22.

27 ⁴ See **Exhibit A**, *Declaration of Michael J. Mandelbrot*, dated March 12, 2014, ¶ 16, as well as
28 **Exhibits 12 and 13**, attached thereto.

⁵

Representation of Adverse Interests

....
(B) A member shall **not accept or continue representation** of a client without providing written disclosure to the client where:

The member has a legal, business, financial, professional, or personal relationship with a party or witness in the same matter; or

The member knows or reasonably should know that: the member previously had a legal, business, financial, professional, or personal relationship with a party or witness in the same matter; and the previous relationship would substantially affect the member's representation; or

The member has or had a legal, business, financial, professional, or personal relationship with another person or entity the member knows or reasonably should know would be affected substantially by resolution of the matter; or

The member has or had a legal, business, financial, or professional interest in the subject matter of the representation.

(C) A member **shall not, without the informed written consent of each client:**

Accept representation of more than one client in a matter in which the interests of the clients potentially conflict; or

Accept or continue representation of more than one client in a matter in which the interests of the clients actually conflict; or

Represent a client in a matter and at the same time in a separate matter accept as a client a person or entity whose interest in the first matter is adverse to the client in the first matter.

(E) A member **shall not, without the informed written consent of the client or former client,** accept employment adverse to the client or former client where, by reason of the representation of the client or former client, the member has obtained confidential information material to the employment.

(F) A **member shall not accept compensation** for representing a client from one other than the client unless:

There is no interference with the member's independence of professional judgment or with the client-lawyer relationship (emphasis added).

As such, the appointment of Stephen M. Snyder as Managing Trustee by Fergus/Renfrew was fraud. Snyder clearly had adverse interests. Stephen M. Snyder, the Managing Trustee of the Western Trust since confirmation, is a former co-worker of Fergus and an asbestos defense attorney who violated Rule 3-310 by accepting employment with interests adverse to past, present and future beneficiaries of the

1 Trust. Trustee Snyder clearly had a bias and conflict against both plaintiff asbestos lawyers, and past,
2 present and future victims of asbestos disease. Snyder also had interests adverse to past, present and future
3 claimants of the Western Asbestos Settlement Trust.⁶ This is a conflict of interest which cannot be
4 waived. In fact, the United States Department of Justice Chapter 11 Trustee Handbook specifically states
5 that a Trustee must be a “disinterested person.”⁷ Disinterested person is defined at 11 U.S.C. §1104(d)
6 and specifically states that a Trustee must not be a person holding an interest materially adverse to the
7 interest of the estate by reason of a direct or indirect relationship to, connection with, or interest in the
8 debtor.⁸ Snyder is clearly not “disinterested” and has clear conflicts of interest with the estate.

9 As clear evidence of these adverse interests, simultaneous with Snyder’s service as Managing
10 Trustee of the Western Asbestos Settlement Trust, Snyder also served as head of the Brobeck Liquidating
11 Committee.⁹ In these dual roles and clearly displaying a conflict of interest and lack of disinterestedness,
12 Snyder improperly misappropriated of \$35,542,397 to the Brobeck Liquidating committee and his other
13 former firm Morgan Lewis & Bockius.¹⁰ Fergus was clearly present and voted to award this money to his
14 former firm adverse to the interests of the Futures claimants.

15 Removal of Stephen Snyder as Managing Trustee due to fraud, misappropriation of funds and
16 conflicts of interest is necessary for the proper administration of the Trust. In addition, pursuant to section
17 of 1105 of the Bankruptcy Code, the court may terminate a Trustee’s appointment and restore the debtor
18 to possession. The Beneficiaries and Mandelbrot request, as real parties in interest, that this Objection
19 serve as Notice that at the June 27, 2014 Annual Report meeting Mandelbrot will seek to terminate the
20 appointment of Stephen Snyder. Further, pursuant to section 105(a) of the Bankruptcy Code, the
21 Beneficiaries and Mandelbrot request this court raise, sua sponte, the issue of whether a trustee’s
22

23
24 ⁶ See Exhibit D, Biography of Managing Trustee Stephen Snyder. See Exhibit E, In Re Complex
25 Asbestos Litigation, AO47921, First District, Div. Three, July 19, 1991 (Snyder, while representing
26 asbestos defendants, *disqualifying* asbestos Plaintiff lawyer for hiring his former paralegal).

27 ⁷ See Exhibit F, Department of Justice Chapter 11 Trustee Handbook, published May 2004, pg. 8,
28 Chapter 3.

⁸ *Ibid.*

⁹ See Exhibit 5, attached to the Declaration of Michael J. Mandelbrot, attached as Exhibit A.

¹⁰ See Exhibit C, 2004 Western Asbestos Settlement Trust Annual Report and Accounting, pg. 11, Item
No. 23. Also see Exhibit B, Declaration of Gary Fergus.

1 appointment should be terminated.¹¹

2 **2. OBJECTION TO NO. 4: Appointment of Trust Advisory Committee –**

3 **Objection: Fraud, Bad Faith, Conflicts of Interest.**

4 Alan Brayton, Chairman of the Trust Advisory Committee since the effective date of this Trust
5 filed the fraudulent Kananian claim referred to in Item No. 23(c) of the Tenth Annual Report and
6 Accounting submitted April 30, 2014. The Trust first became aware of this fraudulent claim in January
7 2007, when the Honorable Judge Harry Hanna issued a scathing published Order indicating that Brayton
8 had committed “institutional fraud” in the Kananian matter, including fraudulent bankruptcy claims and
9 claim forms, manipulation of evidence and had lied extensively to the Court about bankruptcy claims.¹²
10 Brayton was fraudulently paid over \$500,000 in the Kananian matter by the Western Trust and his
11 removal as Chairman of the Trust Advisory Committee was required at that time. These fraudulently
12 obtained monies by Chairman Brayton have never been paid back to the Western Trust. (See additional
13 information in the Objection to No. 23(c), below.) The Western Asbestos Trust Agreement permits
14 removal of the Trust Advisory Committee members due to “bad faith” and the “misappropriation of
15 funds.” Manager of the Trust Advisory Committee Alan Brayton is guilty of both and his removal as the
16 Manager of the Trust Advisory Committee is mandated. Removal of Brayton as Chairman Trust Advisory
17 Committee Member is also required due to the conflicts of interest with Snyder, Fergus and McClain and
18 the concealment of fraud. Each has clearly conspired with Brayton to conceal the Kananian from the
19 Beneficiaries and Claimants. Snyder, Brayton, McClain and Fergus were clearly not disinterested and
20 operated with extensive conflicts of interest. Clearly, Brayton also breached his fiduciary duty to
21 claimants and beneficiaries and removal is appropriate.¹³

22 **3. ADDITIONAL OBJECTION TO NO. 4: Objection: Fraud, Bad Faith of Jack Clapper**

23 Jack Clapper has not attended annual meetings nor served in any meaningful role as Trust
24 Advisory Committee member and should be removed. His failures to attend meetings or attend to the
25

26 ¹¹ See Exhibit F, *Department of Justice Chapter 11 Trustee Handbook*, published May 2004, page 16.

27 ¹² See Exhibit 16, *Hon. Judge Harry Hanna Order dated January 18, 2007, detailing Brayton fraud*,
attached to Exhibit A, *Declaration of Michael J. Mandelbrot dated March 12, 2014*; see also,
Exhibit G, *Various Newspapers Articles Detailing Brayton fraud in Kananian, 2007*.

28 ¹³ See Exhibit 18, *Definition of Fiduciary*, attached to Exhibit A, *Declaration of Michael J. Mandelbrot*.

1 business of the Trusts have allowed other Trust Advisory Committee Members Alan Brayton and David
2 McClain to act with conflicts and in bad faith designed to harm Trust beneficiaries. Removal of Jack
3 Clapper as a Trust Advisory Committee Member due to chronic failure to attend Trust meetings and
4 participating in Trust activities is warranted.

5 **4. OBJECTION TO NO. 5: Appoint and Continuation of Futures Representative –**
6 **Objection: Fraud, Bad Faith, Conflicts of Interest.**

7 The Beneficiaries and Mandelbrot hereby incorporate all previously stated objections, as stated
8 herein. Since November 25, 2002, the Futures Representative has retained an attorney for all Trust
9 activities with a conflict of interest, Gary Fergus.¹⁴ As a former Judge, Charles B. Renfrew should never
10 have offered employment to an individual with a conflict of interest against beneficiaries (that cannot be
11 waived). The hiring of a former asbestos defense lawyer (who spent decades arguing victims of asbestos
12 weren't sick, were liars and not exposed to insulation) to represent future victims of asbestos disease is the
13 representation of adverse interests and clearly not in the best interest of future claimants. Any decisions
14 involving Renfrew/Fergus should be considered void and any and all monies paid to Fergus (clearly
15 obtained through fraud) by the Western Trust should be reimbursed to the Trust. The Western Asbestos
16 Settlement Trust, through these conflicts of interest, has misappropriated to Fergus, a former defense
17 attorney with a conflict of interest, millions of dollars. (*See, Western Annual Reports 2004-2014 relating*
18 *to "Significant Vendors."*) In bad faith, Renfrew/Fergus also assisted in the misappropriation of
19 \$35,542,397 to his former friends and co-workers at the Brobeck firm.¹⁵ In addition and in bad faith,
20 Renfrew/Fergus also actively participated in the case against Mandelbrot (see below).

21 Fergus is clearly not "disinterested" and has interests adverse to the future and present claimants
22 of the Western Trust. The Futures Representative Charles B. Renfrew, a man of advanced age and limited
23 faculties, should be removed for the bad faith hiring of Mr. Fergus and the misappropriation of funds to
24 Fergus and others.

27 ¹⁴ See **Exhibit B**, *Declaration of Gary Fergus* dated March 20, 2014, ¶¶ 2, 4.

28 ¹⁵ **Ibid.**

1 **5. OBJECTION TO NO. 17: J.T. Thorpe Settlement Trust, Thorpe Insulation Settlement**
2 **Trust, Plant Insulation Company Asbestos Settlement Trust Administration – Objection: Fraud,**
3 **Bad Faith, Conflicts of Interest.**

4 California Courts have determined that multiple representations in related estates create a
5 rebuttable presumption that the representation is per se improper. See, e.g., *In re Lee*, 94 B.R. 172, 180
6 (*Bankr. C.D. Cal 1988*).¹⁶

7 The sharing of Western and Thorpe Trust Trustees, fiduciaries, employees and staff as multiple
8 representatives in related estates is per se improper. This creates a conflict of interest as Trustees,
9 fiduciaries and trust employees have access to confidential documents submitted for the purposes of
10 individual claims. In addition, individuals with adverse interests control multiple estates. In addition,
11 numerous Trust employees, including former Brobeck attorney (who oversees claim processing) Chuck
12 LaGrave, have a conflict of interest and interests adverse to the estate. Extensive conflicts exist against
13 many Claimants' attorneys and claimants, and these conflicts are applicable to the entire staff. In addition,
14 the use and utilization of Trust funds specifically for beneficiaries of the Western Trust is an improper use
15 of Trust funds.

16 **6. OBJECTION TO NO. 20: Indemnity Fund (Self Insured Retention) – Objection:**
17 **Misappropriation of Trust Funds, Bad Faith, Fraud, Conflicts of Interest**

18 This is a misappropriation of \$40,000,000 of the Trust beneficiaries' assets. Clearly, this
19 misappropriation is due to the prior misappropriation of over \$40,000,000 by the Managing Trustee
20 Stephen Snyder and Trust Advisory Committee Members Alan Brayton and David McClain as described
21 above. As described in the 2004 Western Asbestos Trust's Annual Reports, the Trust was unable to secure
22 indemnity insurance.¹⁷

23 The Trust committed bankruptcy fraud in 2004 by indicating that insurance is "cost prohibitive."
24 This was a lie and bankruptcy fraud. The reason for the Western Trust's inability to secure indemnity
25

26 _____
27 ¹⁶ See, Exhibit F, Department of Justice Chapter 11 Trustee Handbook, published May 2004, page 16.

28 ¹⁷ See, Exhibit C, 2004 Western Asbestos Settlement Trust Annual Report and Accounting, pg. 7, No. 16
(Self Insured Retention).

1 insurance in 2004 was clearly due to the misappropriation of Trust Funds (a.k.a. "Special Bonuses")
2 previously paid to Trust Advisory Committee Members and Brobeck which were wholly improper.¹⁸

3 Clearly, the premiums for indemnity insurance for Trustees, the Trust's officers and employees,
4 the Futures Representative, the TAC and each of their respective agents would be far less than
5 \$40,000,000. The misappropriation of \$40,000,000 by a self-insured retention fund is bad faith, fraud, a
6 misappropriation of Trust funds and is driven by a conflict of interest and a desire to conceal fraud. A
7 review of the 2004 Western Asbestos Settlement Trust Annual Report reveals that this \$40,000,000 fund
8 was created in 2004 and indicates that the monies would be returned to the Trust "after 3 years" (not
9 coincidentally, the same as the Statute of Limitations for Fraud).¹⁹

10 The \$40,000,000 was never returned to the Trust after 3 years and clearly remains in place due to
11 the bad faith, fraud and misappropriation of funds by Trustees, Futures Representative, Trust Advisory
12 Committee Members and their respective Agents and Professionals.

13 **7. OBJECTION TO NO. 23(a): Legal Disputes – Objection: Fraud, Bad Faith, Conflicts of**
14 **Interests, Misrepresentation of Material Facts**

15 Morgan, Lewis & Bockius, (hereinafter "Morgan") counsel to the Trust, is a "Professional" whose
16 employment must be approved by the Court and must be disinterested. Professionals are required to be
17 "disinterested and hold no interest adverse to the estate."²⁰ Morgan is also Managing Trustee Stephen
18 Snyder's former employer. Morgan is also a firm that represents asbestos defendants against the interest
19 of beneficiaries. Morgan is also a firm that improperly diverted millions of dollars of Western Trust
20 assets.²¹

21 Morgan clearly has a known conflict of interest and is not a disinterested party. As a result of this
22 conflict, Morgan was put on a multi-million dollar retainer agreement by the Western Trust and given a
23

24 ¹⁸ See **Exhibit C, 2004 Western Asbestos Settlement Trust Annual Report and Accounting**, pg. 11, No. 22,
25 23.

26 ¹⁹ See **Exhibit C, 2004 Western Asbestos Settlement Trust Annual Report and Accounting**, pg. 7, No. 16
(Self Insured Retention).

27 ²⁰ See **Exhibit F, Department of Justice Chapter 11 Trustee Handbook**, published May 2004, pg. 64,
Chapter 10 – Employment and Supervision of Professionals.

28 ²¹ **Exhibit C, 2004 Western Asbestos Settlement Trust Annual Report and Accounting**, pg. 11, No. 23.
Morgan Lewis employs many former Brobeck lawyers.

1 fee contract with an improper and unethical “success fee.” (See “Tenth Annual Report,” No. 23, pgs. 10-
2 11.) A “success fee” is not in the best interest of beneficiaries and allows for those with adverse interests
3 (i.e., Snyder, Fergus) to award improper fees to their former co-workers at Morgan. The “success fee” is
4 unauthorized and a fraud on the beneficiaries and must be stricken. The Department of Justice Trustee
5 Handbook clearly does not authorize the hiring of a Professional with a clear conflict of interest (and
6 especially no “success fee”) and clearly this hiring of Morgan by the Trust amounts to fraud.

7 The employment of a professional with a conflict of interest can result in the denial of
8 compensation to the professional under 11 U.S.C. Section 328(c) and to the Trustee under Section
9 326(d).²² Any compensation to Morgan should be denied.

10 Moreover, the Zurich case discussed in the Tenth Annual Report clearly has no merit. The
11 ongoing pursuit of the case is solely to divert Trust assets to Morgan and their attorneys. The damages
12 alleged in that case relate to defaults which the Trusts clearly knows are fraud (See Tenth Annual Report,
13 No. 23(c), also discussed in the Objection to No. 23(c), *infra*). The continued pursuit of this case has no
14 merit and is not in the best interest of the beneficiaries and is a waste of Trust assets.

15 **8. OBJECTION TO NO. 23(b) AND EXHIBIT “C”: *Western Asbestos Settlement Trust v.*
16 *Michael J. Mandelbrot and Mandelbrot Law Firm, Adversary Proceeding No 13-03205, United States*
17 *Bankruptcy Court for the Northern District, San Francisco Division - Objection: Fraud, Perjury,*
18 *Bad Faith, Conflicts of Interest, Misrepresentation of Material Facts***

19 On October 29, 2013, the Honorable Thomas Carlson dismissed the Western Asbestos Trust case
20 against Mandelbrot without prejudice due to the case having no merit.²³

21 Identical cases with nearly identical facts existed in the J.T. Thorpe Settlement Trust and the
22 Thorpe Insulation Company Asbestos Trust v. Mandelbrot in the U.S. Bankruptcy Court for the Central
23 District of California, Case No. 2:12-ap-02182BB. The Honorable Sheri Bluebond presided over that
24 case. The Thorpe case against Mandelbrot was initiated after Mandelbrot accused the Trusts of bad faith,
25

26 ²² See **Exhibit F**, *Department of Justice Chapter 11 Trustee Handbook*, published May 2004, pg. 64,
27 Chapter 10 – Employment and Supervision of Professionals.

28 ²³ See **Exhibit 11**, *Dismissal by the Honorable Thomas Carlson*, attached to **Exhibit A**, *Declaration of*
Michael J. Mandelbrot dated.

1 corruption and misappropriation of funds throughout 2010-2011, after Mandelbrot discovered fraud and
2 corruption at the Trusts.²⁴

3 The Thorpe Trusts had never previously accused Mandelbrot of wrongdoing and never questioned
4 the authenticity and veracity of claims filed by Mandelbrot. To support the case against Mandelbrot, the
5 Trusts relied on the testimony of their former employee John Lynch, someone known to the Western
6 Trust (but unknown to Mandelbrot) as a “pathological liar” and felon, who had also stolen over \$20,000
7 from Western Trust processor Whitney Lauren.²⁵ Lynch also had just burglarized Mandelbrot’s office and
8 stolen and forged checks. This was the Trust’s “star” witness against Mandelbrot.

9 Once the bad faith cases against Mandelbrot were filed by the Western and Thorpe Trusts, the
10 Trust sent a letter dated May 24, 2013, with a ‘finding’ that Mandelbrot was unreliable.²⁶ The May 24,
11 2013 letter was supported by a “study” of Mandelbrot claims which was a complete fraud. This false
12 study of Mandelbrot claims was clearly initiated in bad faith to achieve the results the Trust desired (and
13 through the use of many lawyers who were not “disinterested”). The control groups used for the ‘study’
14 of Mandelbrot claims (deficient claims of Mandelbrot v. deficient claims of other firms) were not
15 randomly selected and as many “hold or deferred” claims of other firms are deemed “deficient claims,”
16 the study was a fraud. The study to support the May 24, 2013 letter against Mandelbrot and the entire
17 Thorpe case against Mandelbrot was a complete fraud and defamation and clearly designed to harm
18 beneficiaries and to continue to concealment and cover up of fraud by the Trust and its fiduciaries
19 (Kananian et al).

20 The case against Mandelbrot proceeded to trial before the Honorable Sheri Bluebond on January
21 21, 2014. Lawyers for the Thorpe Trusts were Stutman, Treister and Glatt (along with Morgan). Prior to
22 trial, neither Bluebond nor Stutman revealed a “close and intimate connection” between themselves.
23 Bluebond and Stutman simultaneously served on the Board of Directors of five different organizations,
24

25 ²⁴ See Exhibit 4, E-mails and letters (2010-2011) from Mandelbrot to Trust and Fiduciaries re: Bad faith
26 and misappropriation of fund, attached to Exhibit A, Declaration of Michael J. Mandelbrot.

27 ²⁵ See Exhibit 7, Lynch Fraud Documents, attached to Exhibit A, Declaration of Michael J. Mandelbrot
dated March 12, 2014.

28 ²⁶ See Exhibit H, Fraudulent “May letter” sent by Trust to Mandelbrot and signed by Snyder, dated
May 24, 2013.

1 Stutman was campaigning for Bluebond's reappointment in 2015, and Bluebond was serving as a public
2 speaker at Stutman-sponsored events during the litigation. Recusal was appropriate due to the Honorable
3 Bluebond's bias, prejudice, and close and intimate connection with the Stutman firm.²⁷

4 During the trial Judge Bluebond made every ruling for her friends (Stutman), while being rude to
5 litigants (Mandelbrot) and literally "inventing" facts in an effort to make Mandelbrot look unreliable.²⁸

6 In this tentative ruling of March 23, 2014, Bluebond states (also read into the Record) that
7 "Mandelbrot had a practice of submitting claims for as large as possible" ²⁹ The practice of
8 submitting a claim for as large as possible was never an allegation against Mandelbrot and/or the
9 Mandelbrot office, was never presented in evidence by the trusts, was materially false and clearly showed
10 a judicial bias in favor of Stutman and the Trusts. The critical claims at issue in the Thorpe case against
11 Mandelbrot were all LOW site value claims.

12 Additional evidence at trial showed there were never irregularities in Mandelbrot's submissions,
13 but instead that the Trusts used a Trust Processor with clear adverse interests to 'create' deficiencies on
14 Mandelbrot claims. Unknown to the Mandelbrot, the Western Trust Processor assigned to 90% of
15 Mandelbrot claims was owed \$20,000 by a Mandelbrot employee and clearly sought to harm
16 Mandelbrot's business. In addition, the Trust never followed the FIFO queue, failed to treat Mandelbrot
17 claims similar to those of Trust Advisory Committee members and consistently made "retroactive"
18 changes to the Trust (amendments) and Mandelbrot's claim filing practices were extremely thorough.³⁰

19 Prior to December 2011, Mandelbrot filed approximately 20 deficient claims with the J.T. Thorpe,
20 Inc. The claims indicated that Navy sailors who leave their ships during ship overhauls would "chip
21 refractory" in the shipyard. Mandelbrot immediately consulted with the Trust Executive Director and
22 Trust staff about these claim. An example of an e-mail exchanged regarding these "disembarkment"
23 claims is as follows (read from the bottom up):

24
25 ²⁷ See Exhibit I, E-mail from Mandelbrot to Trust Counsel re: Stutman/Bluebond close and personal
26 connection dated April 4, 2014, with Exhibits.

27 ²⁸ See Exhibit J, Tentative Ruling from Judge Sheri Bluebond dated March 23, 2014 containing perjury
28 and displaying close relationship to Trust lawyers (Stutman).

²⁹ Id. at pg. 17.

³⁰ See Exhibit A, Declaration of Michael J. Mandelbrot, dated March 12, 2014, ¶¶ 1-30.

1
2 From: Mike Mandelbrot [mailto:mandelbrot@asbestoslegalcenter.org]
3 Sent: Wednesday, July 13, 2011 1:32 PM
4 To: Michael R Dunning
5 Subject: Re: TIST claim [REDACTED]

6 Hold off on filing for now but these should all pass. Are they trying to say only
7 those who worked at LBNSY qualify? I'm tempted to file for arbitration on the
8 claim below if they don't respond by Friday (and all others too with the same
9 scenario). I feel like we are sitting back and taking it in the teeth from them and
10 giving them (Chuck, Laura, Whitney) an opportunity to formulate a way to deny
11 these claims (which they may have already done). Michael - when I left, you
12 indicated that you had 2 weeks of outstanding e-mails to Laura. Has she responded
13 to them? How many deficient claims do we have like this?

14 On Jul 13, 2011, at 1:13 PM, "Michael R Dunning"

15 <dunning@asbestoslegalcenter.org> wrote:

16 I think we should stop filing TI claims with ship exposure and overhauls at
17 LBNSY. The debate below is a typical scenario for several of our claims. I'd like
18 to wait and see how this is resolved first. Agree?

19
20 *Mandelbrot Law Firm/Asbestos Legal Center*
21 *505 A San Marin Drive, Suite 200*
22 *Novato, CA 94945*
23 *Tel (415) 895 5175*
24 *Fax (415) 895 1328*
25 *<http://www.asbestoslegalcenter.org/>*

26 From: Michael R Dunning [mailto:dunning@asbestoslegalcenter.org]
27 Sent: Wednesday, July 13, 2011 1:10 PM
28 To: 'Whitney Lauren'
Cc: 'Laura Paul'
Subject: RE: TIST claim [REDACTED]

HI Whitney,

There were numerous repairs during this period; the exact dates at LBNSY are
9/9/1969 – 12/1/1969, 1/9/1970 – 1/12/1970, 1/13/1970 – 1/17/1970, 2/17/1970 –
2/27/1970, 3/26/1971 – 4/2/1971 and 3/24/1972 – 4/21/1972. The claimant has
confirmed and verified in his interrogatories that he disembarked the ship,
regardless of what his assignments were according to his military records. Military
records will always say the ship of their assignment as he was not assigned to the
shipyard. This doesn't mean he didn't work in the shipyard. The Trust is making
the assumption that military personnel did not disembark ships during overhauls
yet under Western we have to prove if they remained on board or not.

1 Would it be helpful if we adjusted the claim to reflect the above dates or are you
2 saying this claim is not compensable? Please advise so we can take the appropriate
3 course of action.

4 Thanks
5 Michael

6 *Mandelbrot Law Firm/Asbestos Legal Center*

7 From: Whitney Lauren [mailto:wlauren@wastrust.com]
8 Sent: Wednesday, **July 13, 2011** 12:53 PM
9 To: Michael R Dunning
10 Cc: Laura Paul
11 Subject: RE: TIST claim [REDACTED]

12 The records show that the ship was in and out of Long Beach and his Naval record
13 shows him as assigned to the ship.

14 Whitney Lauren
15 Western Asbestos & J.T. Thorpe Settlement Trusts
16 wlauren@wastrust.com 775.325.6205

17 From: Michael R Dunning [mailto:dunning@asbestoslegalcenter.org]
18 Sent: Wednesday, **July 13, 2011** 11:07 AM
19 To: Whitney Lauren
20 Cc: Laura Paul
21 Subject: RE: TIST claim [REDACTED]

22 Hi Whitney,

23 The dates are 9/9/1969 – 4/21/1972.

24 Michael

25 *Mandelbrot Law Firm/Asbestos Legal Center*
26 *505 A San Marin Drive, Suite 200*
27 *Novato, CA 94945*
28 *Tel (415) 895 5175*
Fax (415) 895 1328
<http://www.asbestoslegalcenter.org/>

From: Whitney Lauren [mailto:wlauren@wastrust.com]
Sent: Wednesday, **July 13, 2011** 10:40 AM
To: Michael R Dunning
Cc: Laura Paul
Subject: TIST claim [REDACTED]

Hi,

1 We reviewed this claim and the duration is not clear. Would you clarify how long
2 claimant was disembarked and working at Long Beach?

3 Thank you,
4 Whitney Lauren
5 Western Asbestos & J.T. Thorpe Settlement Trusts
6 wlauren@wastrust.com 775.325.6205
7 P Think Green! Before printing this e-mail ask the question, is it necessary?

8 From: Laura Paul
9 Sent: Monday, **July 11, 2011** 10:27 AM
10 To: Whitney Lauren; Kyle Sweeney
11 Subject: FW: TIST claim [REDACTED]

12 Please see me on this claim.

13 From: Michael R Dunning [mailto:dunning@asbestoslegalcenter.org]
14 Sent: Friday, **July 08, 2011** 1:40 PM
15 To: Laura Paul
16 Subject: TIST claim [REDACTED]

17 Hi Laura,

18 Could you please take a look at the deficiency for TIST claim
19 [REDACTED] The deficiency says the claimant must be on board the
20 ship to qualify. First of all, we're not claiming any exposure on the ship. The site is
21 the shipyard as outlined in the interrogatories and claim form. Secondly, this
22 implies that ship based claims are acceptable for Thorpe which we know is not
23 true. If you could let me know your thoughts I would appreciate it.

24 Thanks
25 Michael

26 *Mandelbrot Law Firm/Asbestos Legal Center*
27 *505 A San Marin Drive, Suite 200*
28 *Novato, CA 94945*
Tel (415) 895 5175
Fax (415) 895 1328
<http://www.asbestoslegalcenter.org/>

29 Realizing that the claims were deficient, Mandelbrot withdrew each of these claims prior to
30 December 20, 2011. Despite Mandelbrot's good faith in withdrawing each of the claims (long prior to the
31 lawsuit against Mandelbrot), the Trust began focusing on alleging these claims were fraud (the so called
32 "disembarkment claims"). As a result, clear issue at trial against Mandelbrot became "whether or not
33 Navy sailors are exposed in Navy Shipyards during overhauls." The clear answer was, "Yes." Mandelbrot

1 submitted Declarations and testimony from Captain F.J. Burger, USN, (Ret.), and Navy sailor Paul
2 Genthner supporting the same.^{31 32}

3 On January 23, 2014, Mandelbrot's former counsel negotiated a void, wholly unethical,
4 unconscionable and unenforceable settlement agreement involving not only the Thorpe Trusts, but also
5 the Western Asbestos Company Settlement Trust and the Plant Insulation Settlement Trust. Mandelbrot
6 (having previously scoffed at this offer) only "reluctantly" agreed on the record under duress despite
7 never having seen the agreement or fully understanding the terms of the agreement.³³

8 The settlement involved not just the Thorpe Trusts, but also this Western Asbestos Company
9 Settlement Trust and the Plant Insulation Trust and involved the publication of defamatory information
10 about Mandelbrot. On January 27, 2014, Mandelbrot terminated his relationship with his counsel and
11 notified the Thorpe Trusts that the settlement agreement was rescinded, unethical, void and
12 unenforceable. The settlement agreement far exceeded the damages prayed for in the Complaint. In
13 addition, Bankruptcy Rule 9019 requires Chapter 11 Trustees to obtain Court approval for such
14 compromises and settlements.³⁴ The Trustee must show that the settlement is in the best interest of the
15 estate and that the compromise and settlement has been properly served upon creditors so they have an
16 opportunity to review the proposed settlement and object. *Ibid.* The Honorable Thomas Carlson has never
17 approved the settlement involving the Western Asbestos Settlement Trust and Plant Insulation Trust
18 despite having exclusive jurisdiction over the Trusts and settlement is clearly not in the best interest of
19 those Trusts. However, utilizing the close and personal relationship with the Honorable Sheri Bluebond,
20 the Trust sought enforcement of the invalid January 23, 2014 settlement agreement involving all four
21 Trusts.

22 Despite a vociferous verbal and lengthy written objection by Mandelbrot and a substantial
23 showing of Trust fraud and perjury by the Western Asbestos Settlement Trust and its lawyers, the
24

25 ³¹ See **Exhibit K**, *Declaration of Captain Frank J. Burger, USN (Ret.)* dated October 15, 2013.

26 ³² See **Exhibit L**, *Declaration of Paul Genthner, Long Beach Navy Shipyard employee* dated October 1,
2013.

27 ³³ See **Exhibit A**, *Declaration of Michael J. Mandelbrot*, dated March 12, 2014, ¶¶ 1-30.

28 ³⁴ See **Exhibit F**, *Department of Justice Chapter 11 Trustee Handbook*, published May 2004, pg. 47,
Chapter 8 (Compromises and Settlements).

1 Honorable Sheri Bluebond ordered enforcement of the January 23, 2014 “agreement.”³⁵ Bluebond’s Order
2 effectively terminated Mandelbrot’s claim filing privileges with the Western Asbestos, Thorpe Insulation,
3 Plant Insulation, and J.T. Thorpe, Inc. Settlement Trusts.

4 The Honorable Thomas Carlson has never approved the settlement as required by Bankruptcy
5 Rule 9019. Mandelbrot has filed a timely Appeal to Judge Sheri Bluebond’s Order and “Judgment” citing
6 fraud, lack of jurisdiction, and that the settlement is void and unethical under California law and the
7 Business and Professions Code and due to fraud.³⁶ A Motion to Stay is scheduled to be heard on July 7,
8 2014 in the District Court of California, Riverside.

9 **9. OBJECTION TO NO. 23(c): Resolution Regarding Default Judgments – Objections:**
10 **Criminal Bankruptcy Fraud (18 U.S.C. §§ 152-156), Bad Faith, Perjury, Misrepresentations of**
11 **Material Facts, Conflicts of Interest, Failure to Notify the United States Trustee of Fraud**

12 The Western Trustees (and especially Stephen Snyder) first became aware of Chairman of the
13 Trust Advisory Committee Alan Brayton’s extensive bankruptcy fraud on January 18, 2007, when the
14 Honorable Judge Harry Hannah issued a scathing Order and Opinion in *Kananian v. Lorillard Tobacco*,
15 CV442750, Cuyahoga, County, OH, indicating Alan Brayton committed institutional fraud, bankruptcy
16 fraud, concealed evidence and disqualified him from ever practicing in Ohio.³⁷ Dozens of newspapers also
17 published stories indicating Alan Brayton had committed fraud and bankruptcy fraud with headlines
18 reading, “Ohio Judge Slaps Down Novato’s Brayton Purcell” and “Major Asbestos Law Firm Barred
19 from Court over “Double Dipping” and “Ohio Court Disqualifies Plaintiff Counsel for Misconduct.”³⁸

20 Alan Brayton was the attorney for the Kananian family simultaneous with his service as the
21 Chairman of the Trust Advisory Committee of the Western Asbestos Trust. The Western Asbestos
22 Company Trust fraudulently paid Managing Trustee Alan Brayton over \$500,000 on a default proved up
23 for Mr. Kananian claiming exposure to asbestos at the Hunters Point Naval Shipyard. The Brobeck firm
24 ‘collected’ the Release for this fraudulent default. **Any and all evidence indicates the Kananian default**

25 _____
26 ³⁵ See **Exhibit M**, *Opposition to Motion to Enforce Settlement Agreement dated March 12, 2014*.

27 ³⁶ See **Exhibit N**, *Appeal filed by Mandelbrot dated May 1, 2014*.

28 ³⁷ See **Exhibit 16**, *Hon. Judge Harry Hanna Order dated January 18, 2007*, attached to **Exhibit A**,
Declaration of Michael J. Mandelbrot.

³⁸ See **Exhibit G**, *Various Newspapers Articles Detailing Brayton fraud in Kananian*, 2007.

1 **judgment filed and proved up by Trust Fiduciary Alan Brayton was complete fraud.**³⁹ Kananian was
2 never exposed to asbestos at Hunters Point Naval Shipyard as claimed. Boilerplate affidavits wholly
3 unacceptable to the Trust were used to 'create' exposure and inflate damages. Brayton lawyers proved up
4 this default in Court. Unquestionably, a fraud was committed.

5 To the extent that the Trustee either discovers or verifies the existence of fraudulent activity, the
6 trustee should notify the United States Trustee immediately.⁴⁰ The United States Trustee was never
7 notified of the Kananian fraudulent default taken by Chairman Brayton. Managing Trustee Stephen
8 Snyder clearly had reasonable grounds to believe in 2007 that Alan Brayton committed a crime (18
9 U.S.C. §152) and a criminal referral was required.⁴¹ Specific criminal violations by the Western Trust
10 Advisory Committee Chairman Alan Brayton and Managing Trustee Stephen Snyder relating to the
11 Kananian matter included, but was not limited to, knowingly and fraudulently: 1) Concealing property of
12 the estate; 2) Making a false oath or account in relation to a bankruptcy case; 3) Making a false
13 declaration and verification in relation to a bankruptcy case; 4) Making a false proof of claim;
14 5) Receiving a material amount of property from the debtor with intent to defeat the Bankruptcy Code;
15 6) Transferring or concealing property with the intent to defeat the Bankruptcy Code; 7) Withholding
16 documents relating to the debtor's property and financial affairs from a Trustee or officer of the Court.
17 **18 U.S.C. §§ 152, 157.**⁴² Clearly, Alan Brayton, as Chairman of the Western Trust Advisory Committee,
18 having committed bankruptcy fraud on the Western Trust should have been removed in 2007.

19 However, the Western Trust and staff continued to cover up and conceal the Kananian fraud. Next,
20 on March 22, 2010, the Western Trustees had clear evidence that Chairman Brayton committed fraud in
21 the Kananian claim when the Western Trust Executive Director Sara Beth Brown (also a licensed
22

23 ³⁹ See **Exhibit 20**, *Brayton internal e-mail dated April 5, 2005, indicating Kananian had no exposure to*
24 *Western Asbestos*, attached to **Exhibit A**, Declaration of Michael J. Mandelbrot; See **Exhibit 22**, *Brayton*
25 *internal e-mails regarding "making up information" and "boilerplates,"* attached to **Exhibit A**,
26 Declaration of Michael J. Mandelbrot; See **Exhibit 23**, *Andreas v. Brayton Purcell Complaint detailing*
27 *fraud by Brayton*, attached to **Exhibit A**, Declaration of Michael J. Mandelbrot dated March 12, 2014.

28 ⁴⁰ See **Exhibit F**, *Department of Justice Chapter 11 Trustee Handbook*, published May 2004, pgs. 21-22,
Chapter 3, (Bankruptcy Crimes).

⁴¹ *Id.* at pg. 22.

⁴² See also **Exhibit F**, *Department of Justice Chapter 11 Trustee Handbook*, published May 2004, pgs.
21-22, Chapter 3- (Bankruptcy Crimes).

1 California attorney) received a subpoena and was deposed in Kananian v. Brayton Purcell after Alan
2 Brayton was sued for malpractice.⁴³

3 Brown specifically testified and produced documents on March 22, 2010, clearly showing the
4 Kananian default was fraud and paid to Alan Brayton.⁴⁴

5 In the Executive Director Brown deposition, it was clear that substantial bankruptcy fraud was
6 committed in that Brayton proved an entirely false default, including but not limited to: 1) Brayton
7 claiming Kananian was exposed to asbestos from Western while at Hunters Point Naval Shipyard
8 although Kananian was never at Hunters Point Naval Shipyard; 2) The utilization of fraudulent boilerplate
9 exposure affidavits not acceptable to the Trust; 3) The utilization of boilerplate damages affidavits
10 designed to increase the default award; 4) Accepting thousands of dollars of additional fraudulently
11 monies on the Kananian claim in 2006, 2007 and 2010, after it was clearly proven the default judgment
12 (claim) was a fraud. See also 2013 Annual Report ¶ 13 regarding increases in payment percentages.

13 In furtherance of this criminal bankruptcy fraud and in an attempt to continue to criminally
14 conceal the Brayton fraud, Sara Beth Brown, Trustees and Trust Advisory Committee Members never
15 reported her subpoena, the deposition of March 22, 2010, or the Kananian fraudulent judgment in any
16 Annual Reports from 2010 through 2013. Each Annual Report filed by the Western Trust from 2004-2013
17 indicated “the factual statements in this Annual report are supported by the Declaration of Sara Beth
18 Brown, executive Director, in Support of Motion to Approve” the Annual Reports (See 2013 Tenth
19 Annual Western Report, pg. 2, ln. 16-17). In every Western Annual Report from 2004-2013, Brown listed
20 “legal matters,” “depositions” and “subpoenas received.” But not here. Brown criminally concealed the
21 fraudulent Kananian default, the fraudulent documents associated with the default, and failed to report the
22

23 ⁴³ See Exhibit O, Deposition of Sarah Beth Brown taken March 22, 2010 taken in Kananian v. Brayton
24 Purcell.

25 ⁴⁴ See Exhibit 20, Brayton internal e-mail dated April 5, 2005 indicating Kananian no exposure to
26 Western Asbestos, attached to Exhibit A, Declaration of Michael J. Mandelbrot. See Exhibit 21,
27 Fraudulent and Boilerplate Documents filed with the Kananian default, attached to Exhibit A,
28 Declaration of Michael J. Mandelbrot; See Exhibit 22, Brayton internal e-mails regarding “making up
information” and “boilerplates,” attached to Exhibit A, Declaration of Michael J. Mandelbrot dated
March 12, 2014; See Exhibit 23, Andreas v. Brayton Purcell Complaint detailing fraud by Brayton,
attached to Exhibit A, Declaration of Michael J. Mandelbrot dated March 12, 2014.

1 same in every Annual Report. Every Declaration Sara Beth Brown signed to support the Annual Reports
2 from at least 2010 through 2013 is clearly perjury and criminal bankruptcy fraud. 18 U.S.C. §§152, 157.
3 Brown's immediate removal as Executive Director is clearly necessary due to criminal bankruptcy fraud,
4 concealing bankruptcy fraud and filing false Bankruptcy reports with the United States Trustee.⁴⁵

5 Additional and extensive information is in the possession of the Western Asbestos Company Trust
6 that confirms the Kananian default (and others), taken by Alan Brayton, was a fraud, including but not
7 limited to the following:

- 8 1) Alan Brayton's own internal firm e-mails which clearly indicate there is "not enough
9 exposure" to qualify for the Western Trust;⁴⁶
- 10 2) Alan Brayton's own internal firm e-mails wherein Brayton tells his firm (only after being
11 caught in the Kananian fraud) to stop "making up" information on bankruptcy claims and that
12 his firm is clearly using "boilerplate documents";⁴⁷
- 13 3) Additional lawsuits against Brayton which detail the fraudulent Kananian claim;⁴⁸
- 14 4) Brayton's own former employees (including Mandelbrot) who will testify the exact boilerplate
15 documents and exposure fraud committed in Kananian were utilized in hundreds of other
16 defaults taken by Brayton;⁴⁹
- 17 5) Stephen Snyder's Testimony dated August 30, 2013 in *Thorpe v. Mandelbrot* wherein
18 Snyder commits perjury in discussing the Kananian claim and the discoveries of the Trust.⁵⁰
19 Snyder also ensured that name "Kananian" was misspelled "Canadian" in this deposition so
20 that those searching for information could not find Snyder's perjury. Snyder's "correction
21 sheets" for the deposition then spelled the name "Kanadian".

22
23 ⁴⁵ See **Exhibit F**, *Department of Justice Chapter 11 Trustee Handbook*, published May 2004, pgs. 21-22,
Chapter 3, (Bankruptcy Crimes).

24 ⁴⁶ See **Exhibit 20**, *Brayton internal e-mail dated April 5, 2005 indicating Kananian no exposure to*
Western Asbestos, attached to **Exhibit A**.

25 ⁴⁷ See **Exhibit 22**, *Brayton internal e-mails regarding "making up information" and "boilerplates."*
26 attached to **Exhibit A**.

27 ⁴⁸ See **Exhibit 23**, *Andreas v. Brayton Purcell Complaint detailing fraud by Brayton*, attached to
Exhibit A.

28 ⁴⁹ See **Exhibit A**, *Declaration of Michael J. Mandelbrot*, dated March 12, 2014, ¶¶ 3-5, inclusive.

⁵⁰ See **Exhibit O**, *Deposition of Stephen Snyder dated August 30, 2013, pages 21-35*, inclusive.

1 The Annual Report conclusion by the Trustees “that incurring the expense of pursuing this matter
2 further – or investigating other default judgments – would not benefit the Trust’s beneficiaries” is
3 criminal fraud, bad faith, misrepresentation of material facts and wholly untrue (see 2013 Tenth Western
4 Annual Report, pg. 15, ln. 13, 14). The Kananian claim alone represents over \$500,000 which should be
5 repaid to the Western Trust for the benefit of beneficiaries. This \$500,000 can easily fund an investigation
6 of and review of other fraudulent Brayton default judgments. Only a small portion of the 1900 default
7 judgments referenced by the Trust in the Annual Report were filed by Brayton. The potential recovery for
8 the beneficiaries is well over \$50,000,000. The expense of the investigation is clearly justified.
9 Mandelbrot would review every Brayton default for free for the benefit of the beneficiaries.

10 The investigation of ALL default judgments taken by Brayton should have been done in 2007 for
11 the benefit of beneficiaries and needs to be done now. Especially given that Brayton was paid over
12 \$100,000,000 in defaults judgments (including Kananian), the possible recovery to the Trust is extensive.
13 Unfortunately, due to unethical conflicts of interest and adverse interests, the Trustees (specifically
14 Stephen Snyder), Trust Advisory Committee (David McClain and attorney Steven Sacks), the Futures
15 Representative (including Gary Fergus) and Trust Fiduciaries (Executive Director Sara Beth Brown)
16 chose to conceal the fraud in 2007 despite the legal duty to report the fraud. *Ibid.* The Western Asbestos
17 Company Trust Annual Reports from 2007-2014 are clearly bankruptcy fraud for concealing these facts.
18 *Ibid.* Importantly, even after the Western Trustees learned of this fraud in 2006, additional crimes were
19 committed by paying (fraudulently) additional monies to Brayton in Kananian in 2006, 2007, and 2010.
20 Alan Brayton, head Trust Advisory Committee Member of the Western Asbestos Company Trust has
21 never repaid these criminally obtained monies to the Trust for the beneficiaries.⁵¹

22 Clearly, the conclusion by the Trust not to require disgorgement from Brayton of wrongfully
23 received monies, not to investigate all of Brayton’s default judgments (possibly close to \$100,000,000
24 fraudulently obtained) and to permanently remove Alan Brayton as a Chairman of the Trust Advisory
25 Committee harms beneficiaries and is due to conflicts of interest, adverse interests and the attempts to
26

27
28 ⁵¹ See Exhibit 23, ¶¶ 52-100, inclusive, *Andreas v. Brayton Purcell Complaint detailing fraud by
Brayton in Western*, attached to Exhibit A, Declaration of Michael J. Mandelbrot.

1 conceal criminal fraud by the Trust, its attorney and agents. Nothing prohibits the review of fraudulent
2 default judgments and the Court's Order expressly does not prohibit the same. The Trusts indicating that
3 the "confirmation hearing expressly eliminated the possibility of such an enterprise" is clearly perjury and
4 fraud designed to harm the beneficiaries. Every Brayton default judgment needs to be reviewed for the
5 benefit of the beneficiaries to return fraudulently obtained monies by Brayton to the Western Asbestos
6 Company Trust.

7 As additional evidence of Brayton fraud requiring removal, it should be clearly noted that at same
8 time Brayton proved up the fraudulent Kananian Default (2002), Brayton also committed tax fraud on the
9 Government and underreported his taxable income by well over \$12,000,000. Over 10 years later,
10 Brayton *finally* admitted this fraud and paid \$3,580,346 in additional tax liability for 2002 plus a penalty
11 of \$537,051.⁵² Brayton was clearly attempting to conceal this fraud, like his claim filing fraud, from the
12 government as well.

13 It should also be clearly noted that the Trust's investigation of the fraudulent Kananian default
14 proven and paid to Chairman Alan Brayton was a complete sham. The Trust hired Keker & Van Nest LLP
15 to investigate the Brayton fraud and paid them well over \$100,000. Keker & Van Nest was wholly
16 unqualified to investigate this claim and had a clear conflict of interest. Keker & Van Nest has no
17 experience in asbestos litigation, never filed an asbestos trust claim (except possibly the false claim
18 identified in the Tenth Annual Report, Item No. 26), never represented a victim of asbestos disease and is
19 only noted as a "White Collar Criminal Defense" firm (something the Trustees and Fiduciaries members
20 clearly need). In addition, Keker & Van Nest shares office space with the Futures Representative of the
21 Trust creating a conflict and lack of "disinterest." Clearly, the investigation by Keker & Van Nest of the
22 Brayton fraud was influenced by the Futures Representative (and its attorney Gary Fergus) to achieve a
23 result justifying the Trustee's (corrupt and criminal) actions. Any monies paid to Keker & Van Nest
24 should be returned to the Trust for the benefit of beneficiaries due to misappropriation.

25 **10. OBJECTION TO NO. 24: Amendments to Trust Documents – Objection, Conflicts of**
26 **Interest, Fraud, Bad Faith**

27
28 ⁵² See Exhibit P – Brayton Tax Deficiency 2002, dated January 24, 2013.

1 The Beneficiaries and Mandelbrot hereby incorporate by reference the “General Objections”
2 stated above and Specific Objections to ¶¶ 3-5 above, as stated herein. These amendments, as well as all
3 prior amendments, voted by Trustees, Futures Representatives and Trust Advisory Committee members
4 are void due to conflicts of interest and fraud. In addition, the Western Asbestos Company Trust has
5 always retroactively applied changes in bad faith.⁵³ The vague amendments by the Western Trust should
6 be considered void.

7 **11. OBJECTION TO NO. 25(e): Notification to Beneficiaries – Notice of Settlement of**
8 **Mandelbrot adversary proceeding (posted January 31, 2014). – Objection, Conflicts of Interest,**
9 **Fraud, Bad Faith, Defamation**

10 No settlement between Mandelbrot and the Western Asbestos Company Trust has ever been
11 approved by the Honorable Thomas Carlson. In fact, Judge Carlson dismissed the Western Asbestos
12 Company Trust case against Mandelbrot.⁵⁴ The substance of the Notice and facts therein, amount to
13 defamation of Mandelbrot and constitute retaliation resulting from Mandelbrot’s notifications to Trusts of
14 Trustees, Trust Advisory Committee Members and their Agents’ fraud and misappropriation of funds.
15 Any such Notice should be removed and corrective action taken.

16 **12. OBJECTION TO NO. 26: Attempt to Place False Claim in Database – Objection:**
17 **Fraud, Bad Faith, Perjury, and Misrepresentation of Material Facts**

18 Since early February, the Trust FTP sites have “closed” with very little information given to
19 beneficiaries. This has been incredibly burdensome and has on Beneficiaries and counsel and has caused
20 considerable irreparable harm and delays in reviews of claims. The Tenth Annual Report is the first time
21 the Trusts have reported that ONE false claim was filed. There has never been a Notice to Beneficiaries
22 that a false claim was placed in the database. Unquestionably, the notice of “one false claim” is a fraud.
23 The Trust website/system was taken offline as an effort to continue to perpetrate fraud (detailed above),
24 conceal evidence (of Trust fraud) and to impair Mandelbrot’s ability to transfer claims. In addition,
25

26 ⁵³ See Exhibit 4, Letters and E-mails by Mandelbrot to Trust detailing retroactive Trust changes and
27 Trust Bad Faith, attached to Exhibit A, Declaration of Michael J. Mandelbrot.

28 ⁵⁴ See Exhibit 11, Dismissal by the Honorable Thomas Carlson, attached to Exhibit A, Declaration of
Michael J. Mandelbrot dated March 12, 2014.

1 evidence exists that a criminal investigation of the Trusts is already taking place. The Beneficiaries
2 request complete information about the “false claim” (who made it, when, and all circumstances
3 surrounding the same). Moreover, the potential placement of one false claim does not require the cost and
4 expense of an entirely new system and impairing hundreds of pending and future beneficiaries’ ability to
5 file claims. This is criminal fraud, a sham and creates irreparable harm to Beneficiaries. Claims are
6 delayed and have to be re-filed and a review of prior claim filings is not possible. This removal of the FTP
7 claim filing site is clearly a sham by the Trust, Trustees, Fiduciaries and Professionals to hide and conceal
8 criminal fraud. Clearly, an inference can be made that Kecker & Van Nest “guided” the Trusts as to the
9 best method to conceal information of the FTP site as an effort to continue to perpetrate criminal fraud.

10 **13. OBJECTION TO NO. 29: Trustee Compensation – Objection, Conflicts of Interest,**
11 **Fraud, Bad Faith**

12 The Beneficiaries and Mandelbrot incorporate by reference herein Objections to Item Nos. 3-5
13 above, as stated herein. Each Trustee is not a “disinterested party” and any compensation to the same is
14 void and should be recouped to the Trust for the benefit of the Beneficiaries. As stated above, Trustee
15 Stephen Snyder has committed multiple and extensive bankruptcy crimes (18 U.S.C. §§ 152-157). Futures
16 Representative Charles Renfrew’s compensation should also be considered void for his employment of an
17 attorney (for Brobeck lawyer Gary Fergus) with adverse and conflicts of interest.

18 **14. OBJECTION TO NO. 30(f, h, i, k, m, and q): Significant Vendors – Objection: Conflicts**
19 **of Interest, Fraud, Bad Faith, and Misappropriation of Trust Funds**

20 The Beneficiaries and Mandelbrot incorporate by reference herein Objections to Item Nos. 3-5 and
21 No. 23(c) above, as stated herein. The following “Significant Vendors” are not “disinterested parties” and
22 have interests adverse to Beneficiaries and all Beneficiaries’ Counsel: Fergus, a Law Office, Counsel to
23 the Honorable Charles Renfrew; Futures Representative, Kecker & Van Nest LLP, law firm hired to
24 investigate the matter described in ¶ 23(c); Charles W. LaGrave, Claims and legal consultant to the Trust;
25 Molland Law; Morgan Lewis & Bockius; Shephard Mullin Richter & Hampton LLP; and Stutman,
26 Treister & Glatt P.C. Each of the above has a conflict of interest pursuant to the California Rules of
27 Professional Conduct and is not a disinterested party as having interests adverse to the Estate. The
28

1 employment of a professional with a conflict of interest can result in the denial of compensation to the
2 professional under 11 U.S.C. Section 328(c) and to the Trustee under Section 326(d).

3 Each has also assisted in the concealment and cover up of Brayton fraud in the Kananian claim. In
4 addition, payments to each of the above were procured through bad faith and/or fraud. Any and all
5 payments to the above should be considered null and void and returned to the Beneficiaries and their
6 permanent removal as significant vendors is mandatory due to fraud. Gary Fergus, counsel for the Futures
7 Representative, specifically has committed multiple acts of criminal and unethical conduct and conspired
8 to misappropriate and has misappropriated millions of dollars from beneficiaries. Every dollar billed to
9 the Trust by Gary Fergus (Fergus, a Law Office) from 2004-2014 should be returned to the Trust due to
10 fraud, bad faith, unethical conduct and conflicts of interests. Fergus was also a significant factor in
11 misappropriating Trust funds of \$35,542,397 to his former firm (Brobeck) and has committed extensive
12 fraud and unethical misconduct.⁵⁵ A referral to the United States Attorney is clearly warranted. Fergus,
13 LaGrave, Molland and Benjamin Smith (Morgan) are all former asbestos defense attorneys with Snyder at
14 Brobeck and have significant interests adverse to the estate. Steve Sacks (Shephard Mullin) also has
15 extensive conflicts of interest and has committed perjury in order to criminally conceal the fraud detailed
16 in Objection to No. 23(c), above. Sacks committed perjury to defend Alan Brayton and has failed in his
17 duties to the Trust.⁵⁶ Sacks employment and any payments to Sacks or Shephard Mullin are a sham and
18 misappropriation of Trust funds and should be returned to the Trust. Sacks is clearly a perjurer.

19 The following Table 1 summarizes the fraud, bad faith, and misappropriation of Western Trust
20 funds by the Trustees, Trust Advisory Committee Members, the Futures Representatives and each of their
21 extensive agents and attorneys. Table 2 summarizes the criminal and unethical conduct of the Trust's
22 actors.

23 **Table 1: Summary of Misappropriation of Western Trust Funds due to Criminal Fraud,**
24 **Bankruptcy Fraud, Bad Faith**

25
26 ⁵⁵ See Exhibit B, Declaration of Gary Fergus dated March 20, 2014, ¶¶ 2, 4.

27 ⁵⁶ See Exhibit A, Declaration of Michael J. Mandelbrot, dated March 12, 2014, ¶ 14(c). See Exhibits 16
28 and 16(a), Hon. Judge Harry Hanna Order dated January 18, 2007, detailing Brayton fraud, attached to
Exhibit A, Declaration of Michael J. Mandelbrot dated March 12, 2014.

Type of Misappropriation of Trust Funds	Amount Misappropriated from Claimants/Beneficiaries (dollars/est.)
<p>1 Managing Trustee Stephen Snyder pays himself 2 and his former firm (Brobeck) a "Special Bonus" 3 (2004 Western Annual Report, pg. ____). Snyder is 4 simultaneously serving as the Executive Trustee of 5 the Western Trust and the Chairman of the Brobeck 6 Liquidation Committee creating a clear conflict of 7 interest</p>	<p>\$35,542,397</p>
<p>6 Trust Advisory Committee Members Alan Brayton 7 and David McClain are awarded improper and 8 unlawful "Special Bonuses" (2004 Western Annual 9 Report, pg. ____).</p>	<p>\$12,300,000</p>
<p>9 Western Trust creates a "Self Insured Retention" 10 (Indemnity) fund due to the fraud of Trustees, 11 Futures Representative, Trust Advisory Committee 12 Members and its agents and attorneys (2004-2013 13 Western Annual Reports – see "Indemnity Fund – 14 Self Insured Retention."</p>	<p>\$40,000,000 (plus interest)</p>
<p>12 Futures Representative Attorney Gary Fergus 13 (despite a known conflict and lack of "disinterest") 14 is hired as the Attorney for the Futures 15 Representative and misappropriates Western Trust 16 funds each year as a "Significant Vendor" (see 17 Western Annual Reports 2004-2013 under 18 "Significant Vendors").</p>	<p>\$6,000,000 (at least \$500,000 per year x 12 years)</p>
<p>17 Chuck LaGrave, former Brobeck attorney, is hired 18 as both inside and outside counsel for the Trust 19 despite conflicts of interest. LaGrave was not 20 "disinterested" and committed extensive fraud (See 21 Western Annual Reports 2004-2013 under 22 "significant vendor").</p>	<p>\$3,000,000 (at least \$300,000 per year x 10 years)</p>
<p>20 Alan Brayton, Chairman of the Trust Advisory 21 Committee of the Western Trust is paid in the 22 Kananian default judgment and numerous other 23 fraudulent defaults (see above).</p>	<p>\$500,000 (at least, with the possibility of up to \$100,000,000)</p>
<p>23 All payments to Shephard, Mullin, Richter and 24 Hampton. Listed as a "Significant Vendor," 25 Shephard is not a "disinterested party" and has 26 committed extensive perjury to protect Alan 27 Brayton. (See Annual Reports 2004-2013 under 28 "Significant Vendors.")</p>	<p>\$6,000,000 (approximately \$500,000 – at least – per year x 12 years)</p>
<p>26 All payments to Morgan, Lewis and Bockius from 27 2004-2013. Morgan, Lewis and Bockius is 28 Snyder's former employer and a firm with a Conflict of Interest, a lack of "Disinterest" who has</p>	<p>\$20,000,000 (at least) - \$2,000,000 per year x 10 years.</p>

Type of Misappropriation of Trust Funds	Amount Misappropriated from Claimants/Beneficiaries (dollars/est.)
misappropriated extensive funds on bad faith lawsuits (Zurich and Mandelbrot). (See Western Annual Reports 2004-2013.)	

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Table 2: Summary of Criminal and Unethical Conduct by the Western Trustees, Trust Advisory Committee Members, Futures Representative and their Attorneys and Professionals.

Individual Committing Criminal Bankruptcy Fraud and/or Unethical Conduct	Criminal and Ethical Conduct
Stephen Snyder, Managing Trustee	Bankruptcy Fraud 18 U.S.C. Section 152-157; 11 U.S.C. Section 104. 11 U.S.C. 326(d), 328. California Rule of Professional Conduct 3-310 Perjury
Alan Brayton, Chairman of the Trust Advisory Committee	Bankruptcy Fraud 18 U.S.C. Section 152-157 California Rule of Professional Conduct 3-310 Perjury; Many others
Gary Fergus, Attorney for the Futures Representative	Bankruptcy Fraud 18 U.S.C. Section 152-157; 11 U.S.C. Section 328 California Rule of Professional Conduct 3-310 Perjury
David McClain, Trust Advisory Committee Member	Bankruptcy Fraud 18 U.S.C. Section 152-157 California Rule of Professional Conduct 3-310
Sara Beth Brown, Executive Trustee	Bankruptcy Fraud 18 U.S.C. Section 152-157 California Rule of Professional Conduct 3-310 Extensive Perjury
Laura Paul, Head of Claims Processing	Bankruptcy Fraud 18 U.S.C. Section 152-157 Extensive Perjury
Benjamin Smith (Morgan Lewis and Bockius)	Bankruptcy Fraud 18 U.S.C. Section 152-157; 11 U.S.C. 328 California Rule of Professional Conduct 3-310 Perjury
Steven Sacks (Shephard Mullin)	Bankruptcy Fraud 18 U.S.C. Section 152-157 California Rule of Professional Conduct 3-310 Perjury

The Beneficiaries and Mandelbrot submit this Objection to the Annual Report and attached exhibits in order to demonstrate that the Trust, Trustees, Trust Advisory Committee Members and their respective Agents/Attorneys acted in bad faith, misappropriated millions of dollars, committed criminal

1 bankruptcy fraud and their removal is necessary and a referral to the U.S. Attorney is appropriate. The
2 Trust, by and through Managing Trustee Stephen Snyder, has engaged in a pattern and practice of
3 criminal fraud through conflicts of interest and bad faith. In addition, the Trust (from at least 2007
4 through 2013) has criminally concealed the extensive fraud committed by Trust Advisory Committee
5 member Alan Brayton, including fraudulent defaults, misappropriations of funds and special bonuses and
6 awards. This Court is urged to take appropriate action.

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8 Dated: June 6, 2014

9 */s/ Michael J. Mandelbrot*
10 MICHAEL J. MANDELBROT
11 Attorney for Beneficiaries
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