

EASTMAN & SMITH

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September 9, 1992

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OF COUNSEL  
JOHN R. EASTMAN  
JAMILLE G. JAMRA  
FRANK E. KANE  
HOWARD M. FRIEDMAN  
RALPH S. BOGGS

1) ALSO ADMITTED  
IN MICHIGAN  
2) ALSO ADMITTED IN  
WASHINGTON, D.C.  
AND NEW YORK

U.S. Department of Labor  
Pension and Welfare Benefits Administration  
Washington, D.C. 20210  
(202) 523-4006

Attn: Ronald D. Allen, Chief  
Division of Reporting Compliance

Re: Salary Continuation Plan of Ohio Asphalt Roofing  
Co., Inc. 30 N. Westwood Avenue, Toledo, Ohio 43607  
Employer Identification Number: 34-4457949  
Date of Statement: March 17, 1992  
Our File No. 0068/29841

Dear Mr. Allen:

Your letter of August 31, 1992, to Ohio Asphalt Roofing Co., Inc., our client, was forwarded to me. Your letter indicated you were unable to determine if the statement for the salary continuation plan for 2 key employees was submitted timely, that is, within 120 days after the plan became subject to Part 1 of Title I of ERISA.

As you requested, enclosed is a copy of the special minutes of actions of directors adopting the plan on December 19, 1991. The employer statement was dated March 17, 1992, which was 99 days after the plan was adopted on December 19, 1991.

Also enclosed is a copy of each salary continuation agreement.

I believe that this letter and the enclosures should satisfy your requests and should confirm that the statement was submitted well within the 120 period.

If you have any questions, please call or write as soon as possible.

Yours very truly,

EASTMAN & SMITH

  
Frank D. Jacobs

FDJ/cds

Enclosures

cc: Ohio Asphalt Roofing Co. Inc.  
Attn: Messrs. Frederick A. Fox and  
Richard T. Fox

SALARY CONTINUATION AGREEMENT

OF RICHARD T. FOX WITH

OHIO ASPHALT ROOFING CO., INC.

This Agreement is made and entered into at Toledo, Ohio, on the day or dates hereafter set forth in 1991, by and between Ohio Asphalt Roofing Co., Inc., an Ohio corporation, having its principal offices in Toledo, Ohio, hereinafter referred to as the "Company" and Richard T. Fox of Toledo, Ohio, hereinafter referred to as the "Employee".

RECITALS, WHEREAS:

A. The Employee is presently employed by the Company in the capacity of President and has been employed by the Company for many years, namely 46 years.

B. The Company desires to enter into this Salary Continuation Agreement for the sole and exclusive benefit of the Employee to reward him for valued past services rendered and encourage his continuous, loyal, and faithful service, to provide financial benefits to him upon retirement or disability and to provide financial benefits to his designated dependents and/or beneficiaries in the event of his death.

C. Although this Agreement is entered into after the performance of some of the services for which the benefit may accrue, it is entered into by the Employee prior to the entitlement of such Employee to such compensation.

AGREEMENT:

NOW, THEREFORE, in consideration of these premises and of the mutual covenants herein contained, the parties agree the above recitals are incorporated as part of this Agreement and as follows:

1. Employment and Retirement Benefits: The Company hereby continues to employ the Employee in the capacity of President commencing with the date of this Agreement and the Employee hereby accepts such continued employment some of the conditions of which are hereafter set forth in this Agreement. The Company agrees to pay the Employee's salary as hereafter provided

A. Commencing on the first day of the month following the month in which the Employee attains 65 years of age and provided he retires, and on the first day of each consecutive month thereafter, for a total of 120 monthly payments, the Company agrees to pay to the Employee the annual sum of \$40,000 in payable in equal monthly installments of \$3,333.33. Should the Employee die

prior to receiving his total of 120 monthly payments, the remaining payments shall be paid to such individual or individuals as the Employee may have designated in writing, filed with the Company, or in the absence of such designation, to the Employee's estate, if living, and if not living, then to his estate.

(1) Deferred Retirement: If, on the date the Employee attains age 65, the Employee does not, in fact, retire from the Company's employment, the Company shall defer the above payments until the Employee does actually retire. In this event the payments will commence on the first day of the month following the end of the month in which he actually retires, the amount thereof shall be the same as set forth above, and shall neither be increased nor diminished by reason of the deferral of the payments.

2. Permanent Disability: In the event of the Employee's permanent disability occurring prior to his retirement, the Company shall pay to him, commencing on the first day of the month following the effective date of his termination of employment, the same salary continuation payments described at Paragraph 1A.

A. For purposes of this Paragraph 2, permanent disability shall mean the Employee's inability to substantially perform on a full time basis the services for which he has been employed because of a physical or mental condition, or impairment for a period of at least 6 months.

(1) In determining the permanency of the disability of the Employee, the Company shall have him examined by a medical doctor qualified to diagnose and treat the Employee's alleged condition, licensed to practice medicine and maintaining an office in Lucas County, Ohio. The Company shall request that the medical doctor perform a complete physical examination on the Employee and that the doctor render to the Company his written report stating therein the finding of his examination and his opinion, based upon a reasonable medical certainty as to whether or not the Employee is permanently disabled as herein defined. This opinion regarding Employee's condition shall be final and binding upon both parties hereto.

3. Death Benefits: In the event of the Employee's death, at the moment of which he was still an employee of the Company, and he was not receiving benefits under any other paragraph of this Agreement, the Company agrees to pay to his beneficiary, if he has named one, or otherwise to his estate, if living, and if not living, then to his estate, as a death benefit, the monthly sum described in Paragraph 1A and, commencing no later than the first day of the month following the month in which his death occurred and for an additional 119 months thereafter, the sum of \$3,333.33 per month.

A. The payment of benefits under this Paragraph

3A shall completely discharge every and all of the Company's obligations under this Agreement. Under no circumstances shall the Employee be entitled to any benefits under Paragraphs 1, 2, and 3 hereof concurrently, it being the intention that payment will be made under one of these Paragraphs to the exclusion of the others.

4. No Collateral: If the Company shall elect to purchase a life and/or disability insurance contract or any other asset to provide the Company with funds to make payments hereunder, the Company shall at all times be the sole and complete owner and beneficiary of such contract, and shall have the unrestricted right to use all amounts and exercise all options and privileges thereunder without knowledge or consent of the Employee or any other person, it being expressly agreed that neither the Employee nor any other person shall have any right, title or interest whatsoever in or to any such contract or other asset. Such contract or other asset shall not be deemed to be held under any trust for the benefit of the Employee or his beneficiaries or to be held in any way as collateral security for the fulfilling of the obligations of the Company under this Agreement, except as may be expressly provided by the terms of such contract title to such other assets. Each shall be, and remain, a general, unpledged, unrestricted asset of the Company.

5. Unsecured Promise: The Employee, his beneficiary, and any other person or persons having or claiming a right to payments hereunder or to any interest in this Agreement shall rely solely on the unsecured promise of the Company set forth herein, and nothing in this Agreement shall be construed to give the Employee, his beneficiary or any other person or persons any right, title, interest or claim in or to any specific asset, fund, reserve, account or property of any kind whatsoever owned by the Company or in which it may have any right, title, or interest now or in the future, but the Employee shall have the right to enforce his claim against the Company in the same manner as any unsecured creditor.

6. Non-assignability: Neither the Employee, nor his beneficiary, nor any other person entitled to payments hereunder shall have power to transfer, assign, anticipate, mortgage or otherwise encumber in advance any of such payments, nor shall such payments be subject to seizure for the payment of public or private debts, judgments, alimony or separate maintenance, or be transferable by operation of law in the event of bankruptcy, insolvency or otherwise.

7. Miscellaneous:

A. This Agreement is executed in multiple copies, each of which shall be considered an original. One is to be delivered to the Employee and one to the Company, which copy shall be permanently on file in the office of the Company.

B. The covenants and provisions contained herein shall extend to and be binding upon the heirs, executors, administrators, successors and/or lawful assigns of the respective parties hereto and shall survive any closing or the delivery of any documents required or otherwise delivered hereunder. The Company agrees it will not be a party to any merger, consolidation or reorganization, or sell all or substantially all its assets, unless and until its obligations hereunder shall be expressly assumed by its successor or successors.

C. This Agreement is to be construed in accordance with the laws of the State of Ohio.

D. If any provisions or paragraphs or part hereof of this Agreement are held invalid, or unenforceable, such invalidity or unenforceability, shall not affect the validity or enforceability of other portions hereof, all of which provisions are hereby declared severable.

E. The headings of the various paragraphs herein have been inserted for convenient reference only and shall not in any manner be construed as modifying, amending or affecting in any way the express terms and provisions hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day or dates set forth below, in multiple copies, each to be deemed an original.

OHIO ASPHALT ROOFING CO., INC.

By X   
Frederick A. Fox, President

By X   
Richard T. Fox, Vice President

Date: December 19, 1991

EMPLOYEE:

X   
Richard T. Fox

Date: December 19, 1991

BENEFICIARY DESIGNATION  
UNDER SALARY CONTINUATION AGREEMENT WITH  
OHIO ASPHALT ROOFING CO., INC.  
OF  
RICHARD T. FOX

The undersigned, pursuant to Paragraph 2 of my Salary Continuation Agreement with the above Corporation (the Company), designates the following as beneficiary thereunder:

PRIMARY  
BENEFICIARY: NAME

Society Bank, Trustee, or the successor or successors, under Trust Agreement of Richard T. Fox dated March 22, 1985.

if living or in existence at my death, or, if more than one person or entity is designated as Primary Beneficiary, in equal shares to those so designated who are living or in existence at my death, if any.

OTHERWISE TO THE  
FOLLOWING CONTINGENT  
BENEFICIARY: NAME

RELATIONSHIP

SOCIAL SECURITY #

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

if living or in existence at my death, or, if more than one person or entity is designated as Contingent Beneficiary, in equal shares to those so designated who are living or in existence at my death, if any.

Otherwise to my lawful surviving children, if any, in equal shares.

Otherwise to my lawful surviving issue, if any, per stirpes.

I reserve the right to change or revoke this Beneficiary Designation from time to time by filing a Change of Beneficiary with the Company.

Dated at Toledo, Ohio, this 19 day of December, 1991.

Signed: X   
Richard T. Fox, Employee

Accepted: OHIO ASPHALT ROOFING CO., INC.

By X \_\_\_\_\_  
Frederick A. Fox, President

Date: December 19, 1991

SALARY CONTINUATION AGREEMENT

OF RICHARD T. FOX WITH

OHIO ASPHALT ROOFING CO., INC.

This Agreement is made and entered into at Toledo, Ohio, on the day or dates hereafter set forth in 1991, by and between Ohio Asphalt Roofing Co., Inc., an Ohio corporation, having its principal offices in Toledo, Ohio, hereinafter referred to as the "Company" and Richard T. Fox of Toledo, Ohio, hereinafter referred to as the "Employee".

RECITALS, WHEREAS:

A. The Employee is presently employed by the Company in the capacity of President and has been employed by the Company for many years, namely 46 years.

B. The Company desires to enter into this Salary Continuation Agreement for the sole and exclusive benefit of the Employee to reward him for valued past services rendered and encourage his continuous, loyal, and faithful service, to provide financial benefits to him upon retirement or disability and to provide financial benefits to his designated dependents and/or beneficiaries in the event of his death.

C. Although this Agreement is entered into after the performance of some of the services for which the benefit may accrue, it is entered into by the Employee prior to the entitlement of such Employee to such compensation.

AGREEMENT:

NOW, THEREFORE, in consideration of these premises and of the mutual covenants herein contained, the parties agree the above recitals are incorporated as part of this Agreement and as follows:

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prior to receiving his total of 120 monthly payments, the remaining payments shall be paid to such individual or individuals as the Employee may have designated in writing, filed with the Company, or in the absence of such designation, to the Employee's estate, if living, and if not living, then to his estate.

(1) Deferred Retirement: If, on the date the Employee attains age 65, the Employee does not, in fact, retire from the Company's employment, the Company shall defer the above payments until the Employee does actually retire. In this event the payments will commence on the first day of the month following the end of the month in which he actually retires, the amount thereof shall be the same as set forth above, and shall neither be increased nor diminished by reason of the deferral of the payments.

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A. For purposes of this Paragraph 2, permanent disability shall mean the Employee's inability to substantially perform on a full time basis the services for which he has been employed because of a physical or mental condition, or impairment for a period of at least 6 months.

(1) In determining the permanency of the disability of the Employee, the Company shall have him examined by a medical doctor qualified to diagnose and treat the Employee's alleged condition, licensed to practice medicine and maintaining an office in Lucas County, Ohio. The Company shall request that the medical doctor perform a complete physical examination on the Employee and that the doctor render to the Company his written report stating therein the finding of his examination and his opinion, based upon a reasonable medical certainty as to whether or not the Employee is permanently disabled as herein defined. This opinion regarding Employee's condition shall be final and binding upon both parties hereto.

3. Death Benefits: In the event of the Employee's death, at the moment of which he was still an employee of the Company, and he was not receiving benefits under any other paragraph of this Agreement, the Company agrees to pay to his beneficiary, if he has named one, or otherwise to his estate, if living, and if not living, then to his estate, as a death benefit, the monthly sum described in Paragraph 1A and, commencing no later than the first day of the month following the month in which his death occurred and for an additional 119 months thereafter, the sum of \$3,333.33 per month.

A. The payment of benefits under this Paragraph

3A shall completely discharge every and all of the Company's obligations under this Agreement. Under no circumstances shall the Employee be entitled to any benefits under Paragraphs 1, 2, and 3 hereof concurrently, it being the intention that payment will be made under one of these Paragraphs to the exclusion of the others.

4. No Collateral: If the Company shall elect to purchase a life and/or disability insurance contract or any other asset to provide the Company with funds to make payments hereunder, the Company shall at all times be the sole and complete owner and beneficiary of such contract, and shall have the unrestricted right to use all amounts and exercise all options and privileges thereunder without knowledge or consent of the Employee or any other person, it being expressly agreed that neither the Employee nor any other person shall have any right, title or interest whatsoever in or to any such contract or other asset. Such contract or other asset shall not be deemed to be held under any trust for the benefit of the Employee or his beneficiaries or to be held in any way as collateral security for the fulfilling of the obligations of the Company under this Agreement, except as may be expressly provided by the terms of such contract title to such other assets. Each shall be, and remain, a general, unpledged, unrestricted asset of the Company.

5. Unsecured Promise: The Employee, his beneficiary, and any other person or persons having or claiming a right to payments hereunder or to any interest in this Agreement shall rely solely on the unsecured promise of the Company set forth herein, and nothing in this Agreement shall be construed to give the Employee, his beneficiary or any other person or persons any right, title, interest or claim in or to any specific asset, fund, reserve, account or property of any kind whatsoever owned by the Company or in which it may have any right, title, or interest now or in the future, but the Employee shall have the right to enforce his claim against the Company in the same manner as any unsecured creditor.

6. Non-assignability: Neither the Employee, nor his beneficiary, nor any other person entitled to payments hereunder shall have power to transfer, assign, anticipate, mortgage or otherwise encumber in advance any of such payments, nor shall such payments be subject to seizure for the payment of public or private debts, judgments, alimony or separate maintenance, or be transferable by operation of law in the event of bankruptcy, insolvency of otherwise.

7. Miscellaneous:

A. This Agreement is executed in multiple copies, each of which shall be considered an original. One is to be delivered to the Employee and one to the Company, which copy shall be permanently on file in the office of the Company.

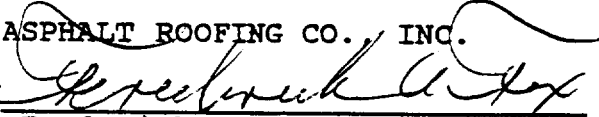
B. The covenants and provisions contained herein shall extend to and be binding upon the heirs, executors, administrators, successors and/or lawful assigns of the respective parties hereto and shall survive any closing or the delivery of any documents required or otherwise delivered hereunder. The Company agrees it will not be a party to any merger, consolidation or reorganization, or sell all or substantially all its assets, unless and until its obligations hereunder shall be expressly assumed by its successor or successors.

C. This Agreement is to be construed in accordance with the laws of the State of Ohio.

D. If any provisions or paragraphs or part hereof of this Agreement are held invalid, or unenforceable, such invalidity or unenforceability, shall not affect the validity or enforceability of other portions hereof, all of which provisions are hereby declared severable.

E. The headings of the various paragraphs herein have been inserted for convenient reference only and shall not in any manner be construed as modifying, amending or affecting in any way the express terms and provisions hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day or dates set forth below, in multiple copies, each to be deemed an original.

OHIO ASPHALT ROOFING CO., INC.  
By X   
Frederick A. Fox, President

By X   
Richard T. Fox, Vice President

Date: December 19, 1991

EMPLOYEE:  
X   
Richard T. Fox

Date: December 19, 1991

BENEFICIARY DESIGNATION  
UNDER SALARY CONTINUATION AGREEMENT WITH  
OHIO ASPHALT ROOFING CO., INC.  
OF  
RICHARD T. FOX

The undersigned, pursuant to Paragraph 2 of my Salary Continuation Agreement with the above Corporation (the Company), designates the following as beneficiary thereunder:

PRIMARY  
BENEFICIARY: NAME

Society Bank, Trustee, or the successor or successors, under Trust Agreement of Richard T. Fox dated March 22, 1985.

if living or in existence at my death, or, if more than one person or entity is designated as Primary Beneficiary, in equal shares to those so designated who are living or in existence at my death, if any.

OTHERWISE TO THE  
FOLLOWING CONTINGENT  
BENEFICIARY: NAME

RELATIONSHIP

SOCIAL SECURITY #

if living or in existence at my death, or, if more than one person or entity is designated as Contingent Beneficiary, in equal shares to those so designated who are living or in existence at my death, if any.

Otherwise to my lawful surviving children, if any, in equal shares.

Otherwise to my lawful surviving issue, if any, per stirpes.

I reserve the right to change or revoke this Beneficiary Designation from time to time by filing a Change of Beneficiary with the Company.

Dated at Toledo, Ohio, this 19 day of December, 1991.

Signed: X Richard T. Fox  
Richard T. Fox, Employee

Accepted: OHIO ASPHALT ROOFING CO., INC.

By X Frederick A. Fox, President

Date: December 19, 1991

SPECIAL MINUTES  
OF  
ACTIONS TAKEN OF DIRECTORS IN WRITING  
WITHOUT A FORMAL MEETING OF  
OHIO ASPHALT ROOFING CO., INC.

Pursuant to the authority granted by Ohio Revised Code Section 1701.54, permitting action by directors without formal meeting, upon the written approval of all the directors, the undersigned, being all the directors of the Corporation, do hereby authorize and agree to the adoption, by this writing, signed by all of us without a meeting, of the following resolutions, which shall constitute the official acts and records without a formal directors' meeting of the Corporation:

WHEREAS, Frederick A. Fox (Fred) and Richard T. Fox (Richard) have rendered valuable services to the Company in their capacity as President and Vice President respectively and

WHEREAS, Richard has been employed by the Company since 1948 and whereas Fred has been employed by the Company since 1946 which employment continues to date, and

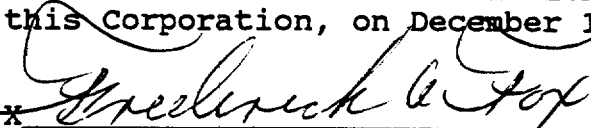
WHEREAS, through their efforts and ability the Company has attained material success in its operation, and

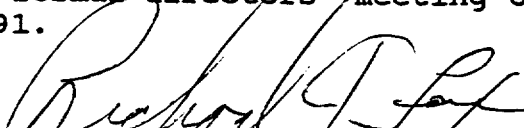
WHEREAS, the Company values the services of Frederick A. Fox and Richard T. Fox highly and deems it desirable to retain their services until retirement.

RESOLVED, that the Company hereby adopts a plan of Salary Continuation for Frederick A. Fox as President and Richard T. Fox as Vice President.

RESOLVED, that any one officer acting alone be and hereby are authorized to enter into the attached Salary Continuation Agreement for and on behalf of the company with Frederick A. Fox and Richard T. Fox in accordance with the terms and provisions as specified therein, and to take such other actions as are necessary or appropriate to implement its purposes.

The undersigned being all of the directors of the Corporation hereby consent to the taking of action without formal meeting and approve, consent to, and ratify the foregoing acts as constituting the official action taken without a formal directors' meeting of this Corporation, on December 19, 1991.

x   
Frederick A. Fox

x   
Richard T. Fox