SDMS Document ID
2032390

Western News 12/22/03

$4 billion identified as 'illegally' transferred by Grace

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Western News Reporter

W.R. Grace illegally transferred as much as $4 billion in assets to avoid legal responsibilities during the decade leading up to its bankruptcy filing two years ago, claim attorneys representing plaintiffs in asbestos-related lawsuits.

Grace, which operated a vermiculite mine near Libby for 30 years, was left with about $1 billion on the record after allegedly shifting large sums of money to its own interests, according to attorneys for the law firm McGarvey, Heberling, Sullivan and McGarvey in Kalispell.

The allegedly illegal transfer of funds started in the early 1990s, said attorney John Heberling. Attorneys for the U.S. Department of Justice have indicated the questionable restructuring continued until about two years prior to Grace's bankruptcy filing in January 2000.

Grace, which filed for reorganization under Chapter 11 of the U.S. Bankruptcy code, was awarded court protection after showing its liability in asbestos cases was greater than the company's overall worth.

Tremolite asbestos contaminated the vermiculite ore mined six miles northeast of Libby.

Plaintiffs claiming personal injury or property damage from asbestos exposure likely will get "pennies on the dollar" in bankruptcy litigation against W.R. Grace, Heberling said.

"They'll be fortunate to get 25 cents on the dollar," he said, adding that it likely will be at least five years before a decision is reached in bankruptcy court.

The Kalispell law office was the first to file a case alleging that Grace illegally transferred funds to qualify for

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$4 billion

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settlements in bankruptcy court. Substantial percentages of the 750 prevention, Federal law [illegible] probably won't reach that high. Libby asbestos patients could be have since passed the buy-out [illegible] Heberling said claimants likely dropped from the plan if independent experts find no proof of a [illegible] to intervene [illegible] be awarded some money [illegible] the beginning of this year. fraudulent transfers case. [illegible] the $4 billion can be recov-

The Justice Department [illegible] ed there would be plenty to May 22 filed the motion [illegible] go around for all asbestos the United States as a [illegible] patients, Heberling said.

The Justice Department, at this time, will pursue the case involving only [illegible] of Cryovac. The transfers involving firestius, which [illegible] say took place [illegible] in 1996, is not part of the Justice Department's investigation, spokesman Jerry Ellington, Region 8 Justice Department attorney, said.

Statements made by Grace officials prior to the bankruptcy filing indicated that the company's intended to protect its packaging company from asbestos liabilities holding down our stock multiples, as claimants [illegible] of the company's intended to escape liability [illegible] exactly what they did," McGarvey said.

In addition to Grace, the Kalispell attorneys are pursuing litigation against the state of Montana.

The civil suits against the state of Montana are based on allegations that agency officials knew of the medicaid fraud associated with asbestos and did not inform mine workers and their families.

All claims being filed against the state are for exposures that took place after 1956.

Litigation against the state began in February 2003.

Heberling also said there may be no legal avenue to force Grace or its medical insurance provider to reinstate no-cost prescription medication coverage to asbestos patients.

The coverage was limited significantly last month as Health Network America cut many blood pressure medications from the list of paid prescriptions.

Individuals requiring costly tanks or cancer patients will receive but medication coverage, said Dr. Jay Flynn, vice president of medical affairs for HNA.

HNA has indicated that a sub-

The law firm, which last year was representing more than 250 Libby plaintiffs, had won cases against Grace prior to its bankruptcy filing that totaled as much as $650,000. Although

Grace operations in Libby, Montana, [illegible] Cryovac, Inc., a wholly owned packaging subsidiary, [illegible] with its specialty chemical business, McGarvey said.

"The result was a $7 billion company became a $1 billion company," McGarvey said. "The assets didn't just disappear, they were just spun off [illegible] (Grace) made distributions to shareholders, which included the corporation's subsidiaries, [illegible] "sophisticated" as they might be should not matter to the public as much as the end result," McGarvey said. "The sophisticated part [illegible] that is where everybody gets bogged down," he said. "The question the public should ask is how in the world there is anyone for a company to do this."

The transfers left Grace technically insolvent, which allowed the Connecticut-based company to continue operations with asbestos-related lawsuits.

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prevention. The percentage of people allowed into the program has declined significantly since the beginning of this year.