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March 6, 2012

Senate Committee Chair Mark C. Jansen
Reforms, Restructuring and Reinventing
P.O. Box 30036
Lansing, MI 48909-7536

Re: House Bill 4601

Dear Senator Jansen:

Our firm has represented hundreds of Michigan workers and their family members who developed disabling asbestos disease from products made by companies, many of which were later purchased by other companies like Crown Cork & Seal. This is the international company coming to this committee asking for special consideration today. We want you to know that those injured workers of our state disabled by asbestos diseases, including the terminal mesothelioma victims, will be directly harmed by this Proposed House Bill 4601. The disingenuous argument by this Bill's supporters is that passage of this Bill will help to prevent job loss which is a right and just thing to do. However, I am here to explain why this is just another attempt to create immunity for a special segment of the business community. This Bill will not benefit Michigan and will harm its workers injured by asbestos.

Crown Cork & Seal is an international corporation whose 2010 SEC 10-K statement shows \$7.9 billion in net sales. This company admitted in the same statement, "While it is not possible to predict the ultimate outcome of asbestos-related claims and settlements, the Company believes that resolution of those matters is not expected to have a material adverse effect on the Company's financial position."

In 1964 Crown Cork & Seal acquired an asbestos company (Mundet Cork) whose own employees were getting sick from its products and were filing workers compensation claims for asbestos disease against the company. The phrase "due diligence" when merging or acquiring another company requires looking first at what you are acquiring.

Then, Crown Cork & Seal operated this asbestos division for several months, collecting profits, before selling it off. Crown Cork & Seal's employee, E.J. Stansbury, testified on December 16, 1983, that the company sold, operated and filled existing orders for asbestos products.

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Crown Cork & Seal acquired a company they knew or should have known had caused their employees to get sick. They acquired the liabilities of the company along with its assets. The question arises, why is this committee here today considering a special corporate welfare bill for their bad business decision? Why should this be done at the expense of Michigan victims of asbestos disease? It is easy in this time of high unemployment to threaten job loss in order to achieve a bailout. However, they have no jobs in Michigan, and Crown Cork & Seal is not the poor victim here.

There is no need for corporate relief represented by this Bill as the number of Michigan asbestos lawsuits has been dwindling every year since 2000. The number of cases filed in 2005 in Wayne County, where most Michigan asbestos cases are filed, was over 2200. Today the number is under 700, down to less than a third in six years, and it will continue to diminish, as aging exposed workers pass on. Remember, Crown Cork & Seal is not liable for exposures after 1964, when they sold their asbestos predecessor, Mundet Cork. That was 47 years ago, meaning the youngest workers who were 18 that year, are 65 today. This company will continue to see less and fewer lawsuits - as will all asbestos Defendants.

This Bill will take away the rights of those Michigan workers and their families who are sick or dying of asbestos disease to be fairly compensated. Make no mistake about asbestos lawsuits. There is no unlimited pot of money to compensate these victims. By taking away the fair share of Crown Cork & Seal's liability (and that of any other Defendant that qualifies for this Bill's immunity), injured workers will receive that much less. There is a shrinking list of companies to compensate these injured workers as many Defendants seize the opportunity to declare bankruptcy and yet continue making profits while enjoying immunity from lawsuits.

The result of exempting a company in Crown Cork & Seal's situation is that those Michigan workers with serious asbestos cancers, who have insufficient insurance (as many do), will be forced to file either bankruptcy, and/or turn to Medicaid to pay large medical bills. With diminished compensation caused by exemptions for asbestos Defendants like Crown Cork & Seal, Michigan taxpayers will end up paying through Medicaid for medical costs that had been the responsibility of Defendants exempted by this Bill. We saw the unwanted results of corporate welfare recently on Wall Street. It is unfair to ask Michigan taxpayers to now pay for corporate welfare to \$7 billion companies like Crown Cork & Seal.

In order to be fair, please consider the plight of Michigan workers, who back in the 1950's and 1960's helped build and maintain our schools, plants, hospitals and infrastructure. They helped to make Michigan what is today. They worked with no awareness that they could become victims of asbestos diseases some 30 to 50 years later.

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Michigan law is clear - corporations are to live with those liabilities they accept at the time of a merger or acquisition. I urge this committee not to tamper with our law as it stands at the expense of victims of asbestos disease.

Sincerely,

MICHAEL B. SERLING, P.C.

A handwritten signature in black ink, appearing to read "Tom Smith", written over a horizontal line.

Thomas A. Smith

TAS /cd

cc: Senator Patrick Colbeck
Senator Mike Kowall
Senator Tom Casperson
Senator David B. Robertson
Senator Coleman A. Young, II
Senator Rebekah Warren